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FOREWORD

The Federal Power Act was originally enacted as the Federal Water Power Act, approved June 10, 1920 (41 Stat. 1063, 16 U.S.C. 791–823). The Federal Power Commission was reorganized January 1, 1931, as an independent Commission under the act approved June 23, 1930 (46 Stat. 797). By title II of the Public Utility Act of 1935, approved August 26, 1935 (49 Stat. 838), the original Federal Water Power Act was made part I of the "Federal Power Act" and parts II and III were added. The Federal Power Act was amended May 28, 1948 (62 Stat. 275), August 7, 1953 (67 Stat. 461), August 15, 1953 (67 Stat. 587), June 4, 1956 (70 Stat. 226), and August 28, 1958 (72 Stat. 941 at 947). The Commission also administers the Natural Gas Act, approved June 21, 1938 (52 Stat. 821, 15 U.S.C. 717–717w), as amended February 7, 1942 (56 Stat. 83, 15 U.S.C. 717f), July 25, 1947 (61 Stat. 459, 15 U.S.C. 717f), March 27, 1954 (68 Stat. 36, 15 U.S.C. 717(c)), and August 28, 1958 (72 Stat. 941 at 947; 15 U.S.C. 717r), and has certain duties under the Tennessee Valley Authority Act, approved May 18, 1933 (48 Stat. 1075), and amendments thereto; the Bonneville Act, approved August 20, 1937 (50 Stat. 731); the Fort Peck Act, approved May 18, 1938 (52 Stat. 403); and under various Flood Control and River and Harbor Acts (notably the Flood Control Act of 1944, approved December 22, 1944 (58 Stat. 887)), and other statutes, as well as Executive Orders.

This volume, the thirty-sixth of a series, contains all the formal opinions and accompanying orders of the Federal Power Commission rendered July 1, 1966, to December 31, 1966, inclusive. In addition to the formal opinions, there have been included intermediate decisions which have become final and selected orders of the Commission issued during such period.

OPINION NO. 496

NATURAL GAS PIPELINE COMPANY OF AMERICA, DOCKET NOS. CP62-243, CP61-339, CP63-99; TRUNKLINE GAS COMPANY, CP66-171; MISSISSIPPI RIVER TRANSMISSION CORPORATION, G-863, CP62-242, CP63-100, CP61-339

OPINION AND ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued July 1, 1966)

Syllabus

1. Proposals of Mississippi, Natural and Trunkline constitute in essence a joint proposal to serve St. Louis area. P. 2.
2. While projects do not ideally satisfy criteria of *Opinion No. 474*, they are sufficiently well-founded to justify certification—applicants have met conventional requirements of public convenience and necessity with respect to markets, gas supply, facilities, financing, rates and economic feasibility. P. 3.
3. Industrial customers are part of the public Commission is charged to protect. P. 4.
4. Authorizations granted here will not preclude future grant of other authorizations to provide competitive service for St. Louis area. P. 5.
5. Recommendations for issuance of limited certificates denied—limited development of need for and consequences of such action does not provide adequate record for Commission to consider practicability, desirability and lawfulness thereof. P. 7.
6. In a proceeding under Section 7 of the Natural Gas Act, Commission *issues* certificates of public convenience and necessity.

Chairman White *not participating.*

Commissioner Black *concurring.*

William W. Bedwell, James H. Wuller, John H. Hendren, Charles V. Shannon and *Louis Flax* for Mississippi River Transmission Corporation.

Raymond N. Shibley, Leland Cadenhead and *Robert P. Paterson, Jr.*, for Trunkline Gas Company.

Charles C. McDugald, William H. Brackett and *Paul Goldstein* for Natural Gas Pipeline Company of America.

J. David Mann, Jr. and *Frederick Morning* for Laclede Gas Company and Missouri Natural Gas Company.

Robert S. Hunt for Illinois Power Company.

Carl J. Babin for United Gas Pipe Line Company.

Willard W. Gatchell for Granite City Steel Company.

Dwight H. Morehead and *George J. Meiburger* for Owens-Illinois Glass Company.

Robert E. Lee Hall for the National Coal Association.

Charles W. Stadell for Mid-West Coal Producers Institute, Inc.

Welly K. Hopkins for the United Mine Workers of America.

John A. McGrath and *Jerome J. McGrath* for Fuels Research Council, Inc.;

National Coal Association; United Mine Workers of America; and Mid-West Coal Producers Institute, Inc.

Wayne W. Waldo for Missouri Public Service Commission.

Patrick J. Smith and *John H. Pratt* for City of Indianapolis, Indiana.

Albert J. Feigen for the Towns of Bourbon, Cuba, Pacific, St. Clair, Steelville, Sullivan, Washington and Waynesville, Missouri.

George P. Lewnes for the Staff of the Federal Power Commission.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

BAGGE, *Commissioner:*

This is a certificate case, arising under Section 7(c) of the Natural Gas Act (Act), and coming before the Commission pursuant to its order issued May 3, 1966, 35 FPC 675, omitting the intermediate decision procedure. This case is a sequel to the Commission's Opinion No. 474 and accompanying order issued September 9, 1965, 34 FPC 771, by which we, among other things, denied certain requested pipeline authorizations for natural gas service to St. Louis, Missouri, and environs because of the defects in the proposals specified in the said opinion. By that opinion we also provided for a further hearing to afford certain applicants opportunity to substantiate further their proposals, in conformity with the criteria prescribed in the said opinion.

At the further hearing, Oklahoma Illinois Gas Pipeline Company (Oklahoma Illinois) and Panhandle Eastern Pipe Line Company (Panhandle), the two parties whose applications gave rise to the "mutually exclusive" issues[1] in this case, did not participate. There remain three primary applicants: Mississippi River Transmission Corporation (Mississippi), the present wholesale pipeline supplier of the St. Louis area; and Natural Gas Pipeline Company of America (Natural), and Trunkline Gas Company (Trunkline), interstate pipelines which propose to deliver gas to Mississippi.

The proposals of Mississippi, Natural and Trunkline constitute in essence a joint project to serve St. Louis and environs. These proposals were virtually uncontested; therefore, a short, four-day hearing was possible, at which, pursuant to agreement, only staff cross-examined. All parties agree that the three applicants should be certificated, but the Commission's staff recommends limiting Natural's and Trunkline's certificates to five-year terms.

We conclude, for the reasons set forth hereinbelow, that certificates should issue to Mississippi, Natural and Trunkline in accordance with their applications as amended, and that staff's recommendation for five-year terms should be rejected.

SUMMARY OF APPLICANTS' PROPOSALS

Since all agree that the basic authorizations sought by applicants should be granted, it is unnecessary to describe the proposals in detail. To summarize, Mississippi by its amended application seeks to increase its existing gas supply by approximately 100,000 Mcf a day, to supply all its customers, both utility and industrial, the additional volumes of gas they have requested for the 1966-67 winter heating season. Mississippi, which is the present wholesale supplier of the St. Louis area, would not have to construct any new facilities for the service it proposes and seeks Commission authority only for the transportation and sale of such volumes. Mississippi would purchase 65,000 Mcf per day of this additional supply from Natural, and 35,000 Mcf a day from Trunkline, effective November 1, 1966. Of these volumes, approximately 35,000 Mcf a day have already been made available to Mississippi from Natural since 1962 under temporary authorization. Certain incidental requests of Mississippi include certificate amendments authorizing the use of interconnection facilities, and the authorization of the transportation and delivery of firm gas in lieu of interruptible to a direct customer, Mississippi Lime Company.

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[1] *Cf., Ashbacker Broadcasting Corp.* v. *F.C.C.,* 326 U.S. 327.

Natural by its amended application proposes to construct and operate facilities to increase its design day capacity by 65,000 Mcf and to sell Mississippi a daily contract quantity of some 65,000 Mcf of gas. Such volumes would be delivered into Mississippi's facilities through previously authorized emergency interconnections at a point in Illinois about 57 miles east of the Mississippi River, where Mississippi's so-called East Line intersects Natural's main north-south line. Natural's proposed facilities include approximately 60.20 miles of 36-inch loop line at various locations along its existing Gulf Coast supply line, and some 18,250 additional compressor horsepower at its compressor stations Nos. 303, 309 and 310. The total estimated cost of these and appurtenant facilities is approximately $13,000,000.

Trunkline by its application seeks permission to transport and to sell to Mississippi the said 35,000 Mcf per day, increasing its presently certificated deliveries from 76,000 Mcf a day to 111,000 Mcf a day. Such additional volumes would be delivered into Mississippi's facilities at a point about 75 miles east of St. Louis in Illinois, where Mississippi's East Line intersects Trunkline's main north-south line. Trunkline's proposed facilities include approximately 31.6 miles of 36-inch loop line at various locations along its existing main line between Longville, Louisiana, and Tuscola, Illinois, and 4050 additional compressor horsepower at main line compressor stations Nos. 48 and 84. The total estimated cost of these and appurtenant facilities is approximately $6,500,000.

THE COMMISSION'S DETERMINATIONS

In presenting their cases, Mississippi, Natural and Trunkline undertook to satisfy the criteria for serving the St. Louis area referred to in Opinion No. 474, particularly at pp. 787, 788, which include the requirements of public convenience and necessity prescribed by Section 7(c) of the Act. Applicants' efforts were not ideally successful. Their projects would not, for example, have a "potent competitive effect" in the St. Louis area as other possible projects might, which was one of the desiderata referred to in Opinion No. 474, at pp. 785, 786.

Nevertheless, we conclude that applicants' projects are sufficiently well-founded to justify their certification. All parties, including staff, agree that they meet the conventional requirements of public convenience and necessity with respect to markets, gas supply, facilities, financing, rates, and economic feasibility, and the facts of record support a finding to this effect. Also, they sufficiently satisfy the other criteria in Opinion No. 474, to the extent presently practicable.

In this opinion we shall consider the applicants' project separately, reviewing the facts which establish that they satisfy the conventional requirements of public convenience and necessity, and, where applicable, the criteria of Opinion No. 474. Also, we shall discuss certain criticisms advanced by staff. Then we shall deal with staff's recommendation for five-year terms for Natural's and Trunkline's certificates, which presents the principal contested issue in this case.

Mississippi.—Mississippi's presentation was considerably simplified by the fact that it is not proposing to construct any new facilities but only to transport and sell gas through its existing facilities.

There is without doubt a market that needs and will purchase the 100,000 Mcf a day Mississippi proposes to sell in the St. Louis area. Indeed, the purpose of this proceeding, which has been in progress since 1962, is to remedy the chronic uncertainty in supply and shortage of gas in the St. Louis area. In this case, following the directions contained in Opinion No. 474, Mississippi has undertaken to meet fully the requirements of all its customers—utilities for resale, firm industrials, and interruptible industrials alike. Cooperating closely with such customer companies, Mississippi has prepared and placed in the record data showing its historical annual and peak day sales and estimated requirements through 1968. In entering into gas sales contracts, Mississippi allowed such customers complete freedom to nominate the volumes they desired without any limitation.[2]

For example, Laclede Gas Company (Laclede), which is the major utility supplying the St. Louis area and which delivers some 60 percent of the volumes sold to resale customers in that area, has signed a 20-year contract with Mississippi covering Laclede's increased level of purchases. Likewise, such major industrial customers as Owens-Illinois, Inc. and the Granite City Group have signed industrial contracts with Mississippi for firm service to meet their present processing fuel requirements, which contracts generally run for a period of seven years from April 1, 1965.

Thus it would seem that, for the first time in many years, Mississippi's customers in the St. Louis area will as the result of this proceeding obtain the volumes of gas they desire. Moreover, it is worthy of note that Mississippi's project and the projects of its two suppliers, Natural and Trunkline, have received unanimous support from both the resale and direct customers of Mississippi, which urge immediate certification of the projects before us. In addition, the State Commissions of Missouri, Illinois, and Arkansas intervened in support of Mississippi's project, and the City of St. Louis, which also intervened, vigorously expressed its support of the project on the record.

However, staff in its brief says that Mississippi's gas requirements problem is dubious and that the present proposal is ill-adapted to solve it. Staff contends that Mississippi's purchase of 100,000 Mcf a day proposed in this case is basically an attempt to augment its *peaking* service through the year 1968 and that Mississippi does not have any problem of meeting system requirements on an annual basis. Notwithstanding this fact, says staff, Mississippi's increased service will be largely for its firm *industrial* customers, as distinguished from utility resale customers, to the extent of 40,000 Mcf a day on an average basis. In sum, says staff, Mississippi in this case is seeking basically to prevent its anticipated 1968 firm industrial load of 40,000 Mcf a day from being interrupted a few times a year. Staff questions whether the Commission should authorize the present proposals for such a purpose.

We are unable to accept this argument. The record indicates that Mississippi's supply problem is a winter season problem. It is questionable whether it can be solved by reference to annual requirements. Further, for several years in the earlier stage of this proceeding, Mississippi was subject to severe criticism for its failure to supply sufficient gas to its firm industrial customers. See Opinion No. 474, pp. 784, 785. These customers too are part of the public we are charged to protect. Evidence was adduced in this record showing that large industrial customers of Mississippi need the increased volumes proposed to operate their plants properly and efficiently. The proposals before us are the only ones that can, with a reasonable degree of certainty, be depended on to meet those requirements and to relieve the gas supply problem in the foreseeable future. Staff does not recommend denial of, and it would be unwarranted to deny, the authorizations sought, on the basis of the record in this case. However, in future proceedings on a fuller record, the matters raised by staff above may well deserve further consideration.

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[2] The contract demand increases of Mississippi's resale customers covered by precedent agreements aggregate some 33,051 Mcf, and the increased firm requirements of the industrial customer aggregate some 26,000 Mcf. Company-used gas is in addition to these volumes. Since 35,000 Mcf a day of the 100,000 Mcf of gas a day Mississippi is seeking in this proceeding is already being delivered under temporary authorization issued to Natural, Mississippi can undertake additional service obligations in this case of only 65,000 Mcf.

The requirement that there be a gas supply adequate to provide Mississippi with 100,000 Mcf of gas a day is clearly met by the evidence, which shows that Natural and Trunkline will supply Mississippi 65,000 Mcf a day and 35,000 Mcf a day, respectively. Further, Mr. Franklin M. Cantrell, Jr., a Vice President and Director of Mississippi, on the record pledged the company to take all reasonable steps consistent with the public interest to meet the increased natural gas requirements of the company's markets. The fact that Mississippi could obtain its system gas supply from sources other than Natural and Trunkline, including United Gas Pipe Line Company (United) and company-produced gas, and the further fact that Mississippi's facilities lie in close proximity to other potential pipeline suppliers of natural gas, place Mississippi in a very advantageous position from the standpoint of future gas supply.

Moreover, the proximity of other possible pipeline suppliers will enable us to certificate a competing supplier into the area if future conditions warrant. We desire to make it clear that the grant of the authorizations herein requested will not preclude the future grant of other authorizations to provide the area with competitive service.

Staff argues, however, that Mississippi's gas requirements could be met at a savings in gas purchase costs of some $2.7 million a year by Mississippi's purchasing the additional volumes it needs to the extent of 75,000 Mcf a day on a daily average basis from United Gas Pipe Line Company (United), its present major supplier in Louisiana, whose rates are lower than either Natural's or Trunkline's rates.

This argument, too, we must reject. As indicated above, Mississippi's supply problem is a winter season problem, and its main line facilities north from Perryville, Louisiana, some 450 miles south of St. Louis, where United's deliveries are made, are used at full capacity during the entire winter season. It may be that, as staff indicates, there is capacity available south of Mississippi's Crossett Compressor Station, but it appears that, north of Crossett, Mississippi's facilities could provide only a relatively small interruptible service which would not seem adequate to meet the needs for firm gas indicated in this case. Thus, even if, as staff contends, Mississippi's mainline facilities could deliver additional gas from United by operating at 100 percent load factor, there remains a question on this record whether such facilities could render the service needed and desired by Mississippi's customers in this proceeding on the basis of the increased deliveries from United suggested by staff. At any rate, staff does not recommend denial of applicants' proposals on this basis, and we think that this matter, too, may well deserve consideration in future proceedings on a fuller record.

The record shows, and no party questions, that Mississippi's facilities are adequate from an engineering standpoint for the service it proposes. It is worth noting that the utilization of the excess capacity on Mississippi's system will minimize costs and result in savings to the consumer, as Opinion No. 474 points out at p. 783, and is, accordingly, a factor supporting the present proposals.

No financing is called for by Mississippi, since it will receive deliveries from Natural and Trunkline into its existing East Line and will render its proposed service through its present facilities.

Mississippi's rates, which are not challenged by any party, are acceptable for purposes of this certificate proceeding. They resulted from a settlement approved by Commission order issued August 7, 1964, 32 FPC 547 at which time Mississippi agreed to a moratorium on rate increases until July 1, 1966. Mississippi has agreed to extend the moratorium on its firm resale rates to July 1, 1968. Mississippi's rates for the increased firm service to direct customers, as agreed to in their contracts for terms of up to seven years, were voluntarily reduced by the company approximately a year ago from the levels initially proposed in this proceeding. Such rates appear to be relatively low and competitive with industrial rates available in other major midwestern markets.

Finally, it is evident that the requirement of economic feasibility with respect to Mississippi has been met. Mississippi adduced in evidence a detailed statement of revenues, expenses and income which shows the feasibility of the company's operations with the purchase of gas from Natural and Trunkline proposed in this proceeding (Exh. 253).

Natural.—Natural too has shown that its project meets all the applicable requirements. As described previously, the company would increase the design day capacity of its transmission system to sell and deliver to Mississippi an average daily contract quantity of 65,000 Mcf of gas. Mississippi and its customers need and can use these additional volumes.

Natural's gas supply showing likewise is adequate. On the basis of Natural's estimated 1968 requirements and its estimate of recoverable reserves, which are uncontested, Natural shows a reserve life index of around 19 years. Commencing with January 1, 1966, Natural's deliverability would, on the basis of its evidence, be at least twelve years.

Natural's proposed facilities, described above and more fully in the record and the company's application, appear adequate in design, and their estimated $13,000,000 cost appears reasonable.

However, staff points out that Natural's new capacity is proposed exclusively on its Gulf Coast line and suggests that since Natural's major market is the northern Illinois area, the peak requirements of which are met largely by storage facilities in that area, the drain-off of 65,000 Mcf a day upstream from storage could have adverse implications for Natural's costs and operational efficiency. Staff evidently believes that if Natural would construct additional facilities on its Gulf Coast line north of the Mississippi delivery point, it could increase the capacity of the storage by some 65,000 Mcf a day. Natural replies that it is not the availability of pipeline capacity which limits its use of storage but inability of the reservoirs to receive increased injections of gas. We conclude that the record does not justify any specific finding or the imposition of any specific requirement on Natural in regard to this criticism by staff.

Natural put forward a satisfactory financing plan (Exhs. 267 and 268), and no party questions the company's ability to finance the proposed facilities.

Natural's rates, which were not challenged by any party, are acceptable for purposes of this certificate proceeding. They are, in fact, significantly lower than those of Trunkline, and those proposed by Oklahoma Illinois in the first stage of this proceeding, see Opinion No. 474, p. 781.

The economic feasibility of Natural's project was sufficiently demonstrated by the company's evidence and is not questioned by any party. Natural's incremental studies indicate that its project will tend to strengthen the system's economic position in the next few years.

Trunkline.—Trunkline also has shown that its project meets all the applicable requirements. Mississippi and its customers unquestionably need and can use the increased 35,000 Mcf of gas a day proposed.

Trunkline's gas supply showing is adequate. Trunkline projects a reserve life index of 16.2 years, including contract additions as of January 1, 1966, and taking into account withdrawals during 1965. Also, Trunkline shows a deliverability life of total system supplies of approximately 11 years. Although staff points out that anticipated takes from the Kelsey Area in Texas are subject to the Texas proration laws and argues this might result in reductions in the volumes available for delivery, staff does not consider this to be a fatal infirmity in the company's project. We do not either.

Trunkline's proposed facilities, described briefly above and more fully in the record and the company's application, appear adequate in design, and their estimated $6,500,000 cost appears reasonable.

Trunkline proposes to finance its project initially by short-term bank loans and internally-generated funds, with permanent financing through bonds as may be determined subsequently. The record supports the conclusion that the financing can be successfully consummated.

Trunkline's rates, which are not challenged by any party, are acceptable for purposes of this certificate proceeding.

The economic feasibility of Trunkline's project is sufficiently demonstrated by the company's evidence and is not questioned by any party. Trunkline's incremental studies indicate that, as in the case of Natural, its project will tend to strengthen the system's economic position in the next few years.

STAFF'S RECOMMENDATION FOR FIVE-YEAR CERTIFICATES

The main contested issue in this case is whether, as staff urges, the certificates of Natural and Trunkline should be limited to five-year terms. Staff contends that these parties' present proposals are not ideally suited to meeting the gas needs of the St. Louis area on a permanent basis. In this connection, staff relies in part on its arguments discussed previously, that Mississippi basically seeks to augment its peaking ability to prevent occasional interruptions of its firm industrial service and that Mississippi could save some $2.7 million in gas purchase costs by purchasing 75,000 Mcf a day of its additional needed volumes from United (*supra*, pp. 4, 5). Staff says that if Natural's and Trunkline's certificates are limited to five-year terms, at the end of that time proposals more appropriate to the St. Louis area's needs could be formulated and presented to the Commission, and Natural's and Trunkline's presently proposed facilities could be used to serve their expanding markets.

Staff's recommendation for limiting the certificates issued Natural and Trunkline to terms of five years is opposed by all other parties in this case. The opponents contest our legal authority to so limit a permanent certificate and allege that the issuance of such certificates would have an adverse financial impact on the pipelines. Staff suggests that the unusual circumstances of this case demand a unique solution to protect the public interest.

We conclude that Staff's recommendations should be denied. Staff's limited development of the need for and consequences of such action does not provide an adequate record for us to consider the practicability, desirability and lawfulness of issuing limited-term certificates.

The Commission further finds:

(1) Mississippi, Natural and Trunkline (applicants) are "natural-gas companies" within the meaning of the Natural Gas Act, as the Commission has heretofore found.

(2) The facilities hereinabove described, as more fully described in applicants' applications and the record in this proceeding, are to be used for the transporta-

tion and sale of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof are subject to the requirements of subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicants are able and willing to do the acts and perform the services proposed and conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the facilities and the transportation, sale and delivery of natural gas proposed by applicants are required by the public convenience and necessity and certificates therefor should be issued, as hereinafter ordered and conditioned.

(5) The public convenience and necessity require that the certificates hereinafter issued and the rights granted thereunder be conditioned upon applicants' compliance with all applicable Commission Regulations under the Natural Gas Act and the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), and (e) of Section 157.20 of such Regulations.

The Commission orders:

(A) Certificates of public convenience and necessity are hereby issued authorizing Mississippi River Transmission Corporation, Natural Gas Pipeline Company of America and Trunkline Gas Company to construct and operate the facilities proposed and to transport, sell and deliver natural gas as hereinabove described and as more fully described in their applications in this case and the record in this proceeding, upon the terms and conditions of this order.

(B) The certificates granted Mississippi, Natural and Trunkline are subject to the condition that these parties comply with all applicable provisions of the Commission's Regulations under the Natural Gas Act and more specifically, with paragraphs (a), (b), (c)(3), (c)(4), and (e) of Section 157.20 of such Regulations, to the extent applicable. The time within which the facilities shall be completed and in actual operation shall be 12 months from the date of issuance of this opinion.

Chairman White *not participating.*

Commissioner Black *concurring.*

BLACK, *Commissioner, concurring:*

I concur in today's action solely because at this point, and largely as a result of our own mistake, we have no other practical alternative.

I still adhere, however, to the views expressed in my dissent to the Commission's order of February 24, 1966, 35 FPC 251 at p. 254, in which I urged that we proceed in a manner which would permit consideration of competitive pipeline service directly into the St. Louis area—a market peculiarly in need of competition. The Commission, however, by its action four months ago effectively precluded any such result and is now forced to accept the joint decision of Panhandle, Mississippi and Natural to divide up the market. This agreement effectively deprives the St. Louis consumer of the benefits of a second pipeline supply, disregards the Commission's Opinion No. 474, issued last fall, and recants the solemn offer of both Panhandle Eastern and Natural to provide competitive service.

In our order of February 24, the Commission majority asserted that the agreement of the parties did not constitute a final determination on the merits and that as a result of the further proceedings we could still consider "alternative means of satisfying the needs of the St. Louis market which may be in the public interest." The order also recited that, "we will require a showing, in this case, whether a grant of the subject applications would prejudice or preclude the provision of such [competitive] service." Of course, none of this evidence materialized. The parties simply used the hearing room to tie down their earlier agreement and have presented it to us for the second time as an accomplished fact. Staff's efforts to limit the effects of the arrangement were too little and too late.

Hopefully, we are a little wiser, as a result of this experience.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

SINCLAIR OIL & GAS COMPANY, ET AL., DOCKET NO. G-16760, ET AL.

ORDER PERMITTING FILING OF FACT STATEMENTS AND BRIEFS

(Issued July 1, 1966)

Pursuant to Opinion No. 476 in this proceeding, issued September 22, 1965, modified by Opinion No. 476-A, November 22, 1965, 34 FPC 930, 1357, certificates of public convenience and necessity under Section 7 of the Natural Gas Act were issued to more than thirty producers for sale of natural gas in Texas Railroad Commission District No. 2. Ordering paragraph (I) of Opinion No. 476, as amended by ordering paragraph (C) of Opinion No. 476-A, deferred for subsequent determination the issue whether refunds should be ordered, and the amounts of such refunds, where producers operating under temporary certificates collected rates in excess of the prices later determined to be the proper initial prices.

The producers affected should be allowed the opportunity to set forth any equities which they may contend would militate against ordering refunds of any or all excess amounts collected under their temporary authorizations. Accordingly, the producers listed in the Appendix hereto may within 30 days file briefs on this question, together with statements of the relevant facts which they may wish to prove in any hearing which may be ordered, together with a statement of the evidence which it is proposed to introduce in support of such facts. We urge the producers not to reiterate general arguments which have been repeatedly presented and rejected by the Commission, and to confine their briefs and statements to matters which may be relevant in the light of the determinations of this Commission in *Skelly Oil Company, et al.*, Opinion No. 492, 35 FPC 849.

The Commission orders:

(A) Each certificate holder listed in the Appendix hereto may file within 30 days of the effective date of this order a statement of any facts which the certificate holder contends would render unjust or inequitable the refund of any or all amounts collected in excess of the price certificated in each docket, together with a statement of the evidence the certificate holder will introduce to prove such facts in the event a hearing is ordered, together with a brief upon the propriety of ordering refunds under the circumstances.

(B) Copies of all filings made pursuant to ordering paragraph (A) hereof shall be served at the time of filing upon all participants.

(C) Any participant shall have 20 days to respond to any statement or brief filed pursuant to ordering paragraph (A) hereof.

APPENDIX

	Docket Nos.
Sinclair Oil & Gas Company, *et al*	G-16760
Union Oil Company of California	G-18389
Trice Production Company (Operator), *et al*	G-19340
George Parker	G-19718
H. H. Howell (Operator), *et al*	G-20595 CI60-402 CI60-640
Carrl Oil, *et al*	CI60-403 CI60-592
Edwin L. Cox (Operator), *et al* (Formerly Paul R. Turnbull (Operator), *et al.*)	CI60-620
Paul R. Turnbull (Operator), *et al*	CI61-1
Richard M. Finder, d/b/a Texkan Oil Company (Operator), *et al*	CI61-352
Mrs. James R. Dougherty, *et al*	CI61-619
W. A. Stockard, *et al*	CI61-751
Lone Star Producing Company	CI61-918
Edwin M. Jones Oil Company	CI61-1202
Producing Properties, Inc	CI61-1236
Heritage Petroleum Corporation (Formerly Layton Brown Drilling Co. Inc. (Operator), *et al.*)	CI61-1567
Lamar Hunt (Operator), *et al.*, and its successor Reserve Oil & Gas Company	CI61-1736
MPS Production Co. (Operator), *et al*	CI62-314
Southland Royalty Company (Operator), *et al.* (Formerly Katz Oil Company)	CI62-334
Shell Oil Company	CI62-653

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

HIGH PLAINS NATURAL GAS COMPANY, DOCKET NO. CP65-401 AND WARREN PETROLEUM CORPORATION (OPERATOR), DOCKET NO. CI64-1466 (G-4165) AND DOCKET NO. RI64-602

ORDER RELEASING REFUNDS

(Issued July 5, 1966)

The Commission by order issued January 17, 1966, 35 FPC 84, in the above dockets approved, *inter alia*, the settlement proposed by Warren Petroleum Corporation (Warren) in Docket No. RI64-602. Warren was directed to submit a report to the Commission setting out the amount refundable to High Plains Natural Gas Company (High Plains), and to retain the money until further order of the Commission. High Plains was directed to file its report of proposed disposition of the amount refundable by Warren. That report filed on March 8, 1966, states that High Plains will flow-through to the City of Perryton $1,852.03 and that the balance of the refund (approximately $5,946.72) is applicable to sales by High Plains which are not subject to the jurisdiction of this Commission.

The Commission finds:

(1) High Plains' report of disposition of the refund to be received from Warren is satisfactory and should be accepted.

(2) Warren should be directed to reduce the amounts refundable to High Plains.

The Commission orders:

(A) High Plains' report filed March 8, 1966, setting forth its proposed disposition of the amounts to be refunded by Warren hereby is accepted.

(B) Warren is directed to release and pay to High Plains within 30 days the amount of $7,798.75, shown in Warren's report filed on February 11, 1966, together with applicable interest at 4.5 percent from March 1, 1966 to the date of payment.

(C) Warren, within 60 days from the date of this order, shall submit its report to the Commission showing the amount refunded hereunder together with a release from High Plains, and upon acceptance thereof, the notification referred to in paragraph (K) of the order of January 17, 1966, will be issued.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

HOLYOKE WATER POWER COMPANY, PROJECT NO. 2004

ORDER APPROVING REVISED PROJECT EXHIBIT L DRAWINGS

(Issued July 5, 1966)

On April 19, 1965, Holyoke Water Power Company filed for Commission approval revised Exhibit L drawings for its constructed Project No. 2004 located on the Connecticut River between Holyoke and South Hadley Falls, Massachusetts.

The drawings show changes in the project structures undertaken by the licensee as emergency measures necessitated by the failure in March of 1964 of a gate and gate seat, and following subsequent inspection which showed that the gate structure for the canal intake had reached the end of its serviceable life and required prompt reconstruction. The reconstruction was accomplished between August 1964 and May 1965 after the licensee had informed the Commission of its intentions in compliance with Articles 4 and 6 of the license. The plans showing the reconstruction have been reviewed and found to be adequate.

The Corps of Engineers has approved the tracings of the revised Exhibit L drawings insofar as the interests of navigation are concerned, pursuant to Section 4(e) of the Federal Power Act.

The Commission finds:

The following described revised Exhibit L drawings conform to the Commission's rules and regulations and should be approved as part of the license for the project, and the Exhibit L drawings mentioned herein as being superseded should be eliminated from the license:

Revised Exhibit	Title	FPC No.	FPC No. Superseded
L Sheet 2	General Plan of Area at Holyoke Dam	2004-50	2004-31
L Sheet 3	Plans and Sections Westerly End of Holyoke Dam.	2004-51	2004-32

The Commission orders:

The revised Exhibit L drawings described in the above finding are hereby approved as part of the license for Project No. 2004, and the Exhibit L drawings mentioned in the same finding as being superseded are hereby eliminated from the license.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

UNION TEXAS PETROLEUM, ET AL., DOCKET NO. G-13221, ET AL.

ORDER PERMITTING FILING OF FACT STATEMENTS AND BRIEFS

(Issued July 5, 1966)*

Pursuant to Opinion No. 436 in this proceeding, issued July 23, 1964, modified by Opinion No. 436-A, October 8, 1964, 32 FPC 254, 952, certificates of public convenience and necessity under Section 7 of the Natural Gas Act were issued to a large number of producers for sale of natural gas in southern Louisiana and the adjacent Federal domain offshore. Ordering paragraph (C) of Opinion No. 436 deferred for subsequent determination the issue whether refunds should be ordered, and the amounts of such refunds, where producers operating under temporary certificates collected rates in excess of the "in-line" prices later determined—20 cents per Mcf in the case of gas produced within the domain of Louisiana, and 18.5 cents per Mcf for gas produced offshore outside the domain of Louisiana.

The producers affected should be allowed the opportunity to set forth any equities which they may contend would militate against ordering refunds of any or all excess amounts collected under their temporary authorizations. Accordingly, the producers listed in the Appendix hereto may within 30 days file briefs on this question, together with statements of the relevant facts which they may wish to prove in any hearing which may be ordered, together with a statement of the evidence which it is proposed to introduce in support of such facts. We urge the producers not to reiterate general arguments which have been repeatedly presented and rejected by the Commission, and to confine their briefs and statements to matters which may be relevant in the light of the determinations of this Commission in *Skelly Oil Company, et al.*, Opinion No. 492, 35 FPC 849.

The Commission orders:

(A) Each certificate holder listed in the Appendix hereto may file within 30 days of the effective date of this order a statement of any facts which the certificate holder contends would render unjust or inequitable the refund of any or all amounts collected in excess of the price certificated in each docket, together with a statement of the evidence the certificate holder will introduce to prove such facts in the event a hearing is ordered, together with a brief upon the propriety of ordering refunds under the circumstances.

(B) Each participant who wishes to be served with copies of the statements and briefs permitted by ordering paragraph (A) shall give notice to the Secretary of the Commission in writing filed not later than ten days from the

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*See orders issued July 21, 1966, *infra*, p. 147 and August 11, 1966 denying reconsideration and rehearing, etc., 36 FPC 418.

date of this order. The Secretary shall transmit, to each certificate holder listed in the Appendix and to each participant filing notice pursuant to this paragraph, a list of the participants filing such notice.

(C) Copies of all filings made pursuant to ordering paragraph (A) hereof shall be served at the time of filing upon all participants who have filed timely notice pursuant to ordering paragraph (B) hereof.

(D) Any participant shall have 20 days to respond to any statement or brief filed pursuant to ordering paragraph (A) hereof.

APPENDIX

Union Texas Petroleum, et al. Docket No. G-13221, *et al.* Dockets Deferred for Presentation of Briefs and Statement of Evidence as to Whether Refunds Should Be Ordered

Docket No.	*Applicant*	*Price Certificated*
		Cents
G-20243	Burton Industries, Inc., William T	20.0
G-20379	do	20.0
G-17298	Carter, Reese E. (Operator), *et al*	(1)
CI63-326	Cockrell, E., Jr (Operator), *et al*	20.0
CI62-400	Cockrell, E., Jr.	20.0
CI62-997	Christie, Mitchell & Mitchell Co., *et al.**	20.0
CI62-1359	Clegg & Hunt, *et al*	20.0
G-16840	Continental Oil Co	20.0
CI60-645	Cyprus Oil Co. (now CRA, Inc.)	20.0
CI61-841	Dillon, Herbert L., Jr. (Operator), *et al*	20.0
CI63-410	do	(1)
CI61-42	Dixon Management Corp. Agent, *et al*	20.0
CI62-897	Dorn and Miller Co	18.5
G-18461	Drew Petroleum, Inc	[1] 20.0
CI61-248	Forest Oil Corp. (Operator), *et al*	20.0
CI62-283	do	20.0
CI62-898	do	18.5
CI62-720	Freeport Oil Co	20.0
G-20123	General American Oil Co. of Texas	20.0
CI61-126	do	20.0
CI61-182	do	20.0
CI62-1502	do	20.0
G-18897	Hassie Hunt Trust	20.0
G-19249	do	20.0
CI62-702	Hibbert, R. E	20.0
CI62-841	Hudson Gas & Oil Corp	20.0
G-18680	Huffington, Roy M	20.0
G-19460	Hunt, H. L., *et al*	20.0
G-18596	Hunt Oil Co	20.0
CI62-546	Jameson, F. E., *et al*	20.0
CI62-606	Lamson & Bennett, Inc. (Operator), *et al*	20.0
G-15542	Marathon Oil Co	20.0
G-18053	McDermott & Co., Inc., J. Ray	20.0
CI63-301	do	20.0
CI61-236	Mecom, John W	20.0
CI60-745	Midwest Oil Corp	20.0
CI60-8	Owen, J. P. (Operator), *et al*	20.0
CI62-538	do	20.0
CI62-1486	do	20.0
G-16946	Pan American Petroleum Corporation	20.0
G-17468	Petroleum, Inc. (Operator), *et al*	20.0
CI61-67	Pioneer Oil & Gas, Inc	20.0
G-18021	Placid Oil Co	20.0
G-18076	do	20.0
G-18502	do	20.0
CI61-511	do	20.0
CI63-305	do	20.0
G-17632	Samedan Oil Corporation	20.0
CI62-378	Samedan Oil Corporation (Operator), *et al*	20.0
CI62-561	Samedan Oil Corporation, *et al*	20.0
CI62-623	Shell Oil Co	20.0
CI62-625	do	20.0
CI63-188	Skelly Oil Co. (Operator), *et al*	20.0
CI62-551	Southdown, Inc	20.0
G-14835	Southwest Gas Producing Co., Inc	20.0
G-20046	do	20.0
CI63-748	do	20.0
G-17412	Superior Oil Co., The	20.0
CI61-537	do	[3] 20.0
CI61-1436	do	[3] 20.0
CI61-1481	do	20.0

See footnotes at end of table.

APPENDIX—continued

Docket No.	*Applicant*	*Price Certificated*
		Cents
G-18058	Sword Co., *et al.*	20.0
G-12308	Texas Gulf Producing Co., *et al.***	[4] 20.0
CI62-305	Texas Liberty Gas Corp.***	20.0
G-17467	Trice Production Co. (Operator), *et al.*	20.0
CI60-17	do	20.0
CI62-1026	do	20.0
CP60-106	Trunkline Gas Co.	20.0
G-13221	Union Texas Petroleum, A division of Allied Chemical Corporation	[5] 20.0
CI60-607	U.S. Oil of Louisiana, Inc. (Operator), *et al.*	20.0
CI61-144	do	20.0
CI60-483	Walker, W. E.	20.0
CI60-638	Walker, W. E. and Freedom Minerals, Inc.	20.0

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[1] In-line price; no certificate sought. Authorization to abandon or terminate sales will be deferred pending determination of the refund obligation (if any).

* now George P. Mitchell & Associates, Inc., et al.

[2] Rate Schedule No. 103. Refund obligation (if any) to be determined with respect to Supplement No. 2 only.

[3] Rate Schedule No. 102. Refund obligation (if any) to be determined with respect to Supplement No. 2 only.

[4] In-line price; no certificate sought. Authorization to abandon or terminate sales will be deferred pending determination of the refund obligation (if any).

[5] Applicable to additional acreage covered by Supplement No. 7 to Union Texas' FPC Gas Rate Schedule No. 8.

** now Sinclair Oil & Gas Company.

*** now Texas Gas Producing Company.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

CENTRAL ILLINOIS ELECTRIC AND GAS COMPANY, PROJECT NO. 2418

ORDER ISSUING LICENSE (MINOR)

(Issued July 6, 1966)

Application was filed on October 8, 1963 by Central Illinois Electric and Gas Company (Applicant) of Rockford, Illinois, for a license under the Federal Power Act (Act) for constructed Project No. 2418, known as the Fordam Dam Project, located on Rock River, in the City of Rockford, Winnebago County, Illinois. No lands of the United States are affected by the project.

The project dam was originally constructed in 1852, but its deterioration required one of its sections to be replaced in 1904 and the other section to be reconstructed in 1910 with the same crest elevation as the original dam. Applicant acquired the project works on April 1, 1963.

The Secretary of the Army and the Chief of Engineers have recommended the terms and conditions in the interest of navigation contained in Form L-3 (32 FPC 1114). However, since Form L-3 is not applicable to minor projects we are including as part of the license herein granted the terms and conditions set forth in attached Form L-9 (32 FPC 577) which contains terms and conditions in the interest of navigation similar to those contained in Form L-3. The Department also advised that the plans of the project structures affecting navigation are satisfactory insofar as the interest of navigation is concerned.

The Department of the Interior, in reporting on the application, advised that any license for the project should contain the terms and conditions set forth in Form L-3 in the interests of fish, wildlife and recreation. We are including as a part of the license herein granted the terms and conditions set forth in attached Form L–9 which contains terms and conditions in the interests of the Department substantially similar to those contained in Form L–3, and special conditions designated herein as Articles 12 and 13.

The Department of Health, Education, and Welfare has reported that there are no apparent water supply, water quality or vector control problems connected with the project and none is anticipated.

In its order of August 10, 1964 (32 FPC 575, 576), issuing a license for Project No. 2346, the Commission found that the Rock River from its mouth to at least Janesville (mile 181) is a navigable waterway of the United States. Fordam Dam Project No. 2418 is located at mile 136.7 on the Rock River. For the reasons set forth in our Opinion No. 357 (27 FPC 830), the license herein granted shall have an effective date of April 1, 1962 and a termination date of December 31, 1993.

In our order on rehearing issued February 17, 1965, in *Wisconsin Power & Light Company, Project No. 2347, et al.* (33 FPC 275) we stated that we would have no objection to the issuance of licenses for minor projects without waiving Sections 14 and 15 of the Federal Power Act and the other provisions of the Act necessary to the effectuation of these sections, provided the minor project applications are timely supplemented pursuant to Section 4.50 of our Regulations under the Act (18 CFR § 4.50), which relates to applications for major projects. In the event the applicant herein wishes a license in which those provisions of the Act are not waived it should so advise us within 30 days from the date of issuance of this order and file its supplemental application within 30 additional days thereafter.

The Commission finds:

(1) Fordam Dam Project No. 2418 is located upon navigable waters of the United States.

(2) Applicant is a corporation organized under the laws of the State of Illinois, and has submitted satisfactory evidence of compliance with the requirements of all applicable State laws insofar as necessary to effectuate the purposes of a license for the project.

(3) Public notice of the filing of the application has been given. No protests or petitions to intervene have been received. No conflicting application is before the Commission.

(4) The project does not affect a Government dam, nor will the issuance of a license therefore, as hereinafter provided, affect the development of any water resources for public purposes which should be undertaken by the United States.

(5) Subject to the terms and conditions hereinafter imposed, the project will be best adapted to a comprehensive plan for improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, for the improvement and utilization of water-power development, and for other beneficial public uses, including recreational purposes.

(6) The installed horsepower capacity of the project hereinafter authorized for the purpose of computing the capacity component of the administrative annual charge is 1,600 horsepower, and the amount of annual charges, based on such capacity, to be paid under the license for the project, for the costs of administration of Part I of the Act is reasonable as hereinafter fixed and specified.

(7) It will be in the public interest to waive pursuant to Section 10(i) of the Act the terms and conditions contained in the following sections of Part I of the Act:

> Sections 4(b), except the second sentence thereof: 4(e), insofar as it relates to approval of plans by the Chief of Engineers and the Secretary

of the Army and to public notice; 6, insofar as it relates to public notice and to the acceptance and expression in the license of terms and conditions of the Act which are hereinafter waived; 10(c), insofar as it relates to depreciation reserves; 10(d); 10(f); 11; 12; 14, except insofar as the power of condemnation is reserved; 15; 19; 20; 22; and 23(a), insofar as it relates to the determination of fair value.

The Commission orders:

(A) This license is hereby issued to Central Illinois Electric and Gas Company (Licensee) of Rockford, Illinois, under Sections 4(e) and 10(i) of the Act, for a period effective as of April 1, 1962, and terminating December 31, 1993, for the continued operation and maintenance of Project No. 2418, located on Rock River, a navigable water of the United States, subject to the terms and conditions of the Act insofar as not expressly waived herein, which Act is hereby incorporated by reference as a part of this license, and subject to such rules and regulations as the Commission has issued or prescribed under the provisions of the Act.

(B) Fordam Dam Project No. 2418 consists of:

(i) all lands constituting the project area and enclosed by the project boundary or the limits of which are otherwise defined; and

(ii) 1. a 635-foot long reinforced concrete dam 12 feet high to elevation 698.93 feet with 2.5-foot flashboards to elevation 701.43 feet and a 19-foot fish ladder; 2. a reservoir to elevation 701.66 feet at mean normal water, about 400–600 feet wide and about eight miles long; 3. a 280-foot long head race about 54 feet wide; 4. a powerhouse of concrete and brick about 33x70 feet containing two 600-kw generating units totalling 1,200 kw; and 5. appurtenant electrical and transmission facilities.

(C) This license is also subject to the terms and conditions set forth in Form L-9 (July 1, 1964) entitled "Terms and Conditions of License for Constructed Minor Project Affecting Navigable Waters of the United States" (32 FPC 577), which terms and conditions, designated as Articles 1 through 11, are attached hereto, and made a part hereof, and subject to the following special conditions set forth herein as additional articles:

Article 12. The Licensee shall, for the conservation, and development of fish and wildlife resources, construct, maintain, and operate, or arrange for the construction, maintenance and operation of such facilities and comply with such reasonable modifications of the project structures and operation as may be ordered by the Commission upon its own motion or upon the recommendations of the Secretary of the Interior or the fish and wildlife agency or agencies of any State in which the project or a part thereof is located, after notice and opportunity for hearing and upon findings based on substantial evidence that such facilities and modifications are necessary and desirable, reasonably consistent with the primary purpose of the project, and consistent with the provisions of the Act.

Article 13. The Licensee shall construct, maintain and operate or shall arrange for the construction, maintenance and operation of recreational facilities including modifications thereto, as access roads, wharves, launching ramps, beaches, picnic and camping areas, sanitary facilities and utilities, as may be prescribed hereafter by the Commission during the term of this license upon its own motion or upon the recommendation of the Secretary of the Interior or other interested Federal and State agencies, after notice and opportunity for hearing and upon findings based upon substantial evidence that such facilities are necessary and desirable, and reasonably consistent with the primary purpose of the project.

Article 14. The Licensee shall pay to the United States the following annual charge effective April 1, 1962:

For the purpose of reimbursing the United States for the costs of administration of Part I of the Act, an annual charge of $80.00.

(D) This order shall become final 30 days from the date of its issuance unless application for rehearing shall be filed as provided in Section 313(a) of the Act, and failure to file such an application shall constitute acceptance of this license. In acknowledgment of the acceptance of this license, it shall be signed for the licensee and returned to the Commission within 60 days from the date of issuance of this order.

Before Commissioners: L. J. O'Connor, Jr., Acting Chairman; Charles R. Ross and David S. Black.

CITY OF CLEWISTON, FLORIDA v. FLORIDA POWER & LIGHT COMPANY, DOCKET NO. E-7243

ORDER TERMINATING PROCEEDING

(Issued July 6, 1966)

This order grants a motion to dismiss the above-entitled proceeding which was filed on June 3, 1966, by the City of Clewiston, Florida (Clewiston). The proceeding was initiated by Clewiston's Application for Interconnection and Complaint Against Unlawful Actions filed September 7, 1965, requesting the Commission to order a direct interconnection between Florida Power & Light Company (FPL) and Clewiston and to require the rendition of wholesale electric service by FPL to Clewiston. The motion to dismiss reflects a settlement agreement reached among representatives of Clewiston, Glades Electric Cooperative, Inc., Moore Haven, Florida (Glades), and the United States Sugar Corporation (Sugar Corporation).

At the time of filing its Application and Complaint, Clewiston received its power and energy supplies pursuant to a contractual arrangement with Sugar Corporation. Glades, a cooperatively-owned electric system, then sold power and energy to Sugar Corporation for resale to Clewiston. Glades' deliveries supplemented industrial generation of Sugar Corporation. Under the settlement proposal Glades will sell electric power and energy at wholesale for resale to Clewiston, billing the City directly. Sugar Corporation will continue to buy, sell, and exchange electric power and energy with Glades. The Cooperative operates some of its own generating capacity but purchases the major portion of its electric utility system's needs at wholesale from FPL.

The time for filing objections to Clewiston's motion has expired, and no objections thereto have been received. On June 15, 1966, the Presiding Examiner certified this matter to the Commission for our consideration.

By order issued November 30, 1965, 34 FPC 1395, the Commission provided for an investigation and hearing with respect to the matters presented in Clewiston's Application for Interconnection and Complaint, and FPL's Answer thereto. A field investigation was conducted by the Commission staff in December, 1965; and on January 18, 1966, a prehearing conference was held. Thereafter a number of continuances were granted to facilitate settlement negotiations among the principals concerned. The current three-party agreement dated June 1, 1966, among Glades, Sugar Corporation and Clewiston reflects the settlement reached in those conferences.

Under the settlement proposal Clewiston will pay an average charge of approximately 1.168¢ per kwh, a reduction of its wholesale power costs of approximately

$144,000 annually based upon average projected demand and energy requirements of the City covering the seven-year period of the three-party settlement contract (June, 1966 through June, 1973). Glades' wholesale rates and charges to Sugar Corporation for resale to Clewiston averaged 1.69¢ per kwh; based upon total energy deliveries of 14,814,000 kwh to Clewiston during the 12-month period ending December 31, 1964.[1] Under the settlement contract Glades' rates and charges for industrial service to Sugar Corporation are the same as the Cooperative's rates and charges to Clewiston.

In support of its request, Clewiston advises that the settlement proposal effects substantially the objectives which it sought through its Application for Interconnection and Complaint, and hence that no useful purpose of the City would be served by its continuing to press its arguments in the present proceeding. As indicated above, the other parties to this proceeding and Commission staff do not oppose Clewiston's motion.

The Commission further finds:

It is necessary and appropriate for the purposes of the Federal Power Act and the Commission's Rules of Practice and Procedure, and good cause has been shown to grant the City of Clewiston's motion to dismiss its Application for Interconnection and Complaint, and to terminate this proceeding.

The Commission orders:

The City of Clewiston's Application for Interconnection and Complaint filed September 7, 1965, is hereby dismissed, and the above-entitled proceeding is terminated.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

GULF STATES UTILITIES COMPANY, PROJECT NO. 2504

ORDER APPROVING PROJECT EXHIBIT M

(Issued July 6, 1966)

On May 12, 1966, Gulf States Utilities Company, licensee for minor-part transmission line Project No. 2504, filed for Commission approval Exhibit M showing the general description and specifications of project transmission equipment. The exhibit was required to be filed by Article 18 of the license for the project which is located in Jasper and Tyler Counties, Texas, and affects lands of the United States within the Angelina National Forest and lands of the United States within the Sam Rayburn development.

The Commission finds:

Exhibit M in one typewritten sheet entitled "Exhibit M-Project No. 2504," received in the Commission on May 12, 1966, conforms with the Commission's rules and regulations and should be approved as part of the license for the project.

The Commission orders:

The Exhibit M described in the above finding is hereby approved as part of the license for Project No. 2504.

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[1] Sugar Corporation's charges to Clewiston involved no mark-up from the rates which the Company paid to Glades.

Before Commissioners: L. J. O'Connor, Jr., Acting Chairman; Charles R. Ross and David S. Black.

ARKANSAS LOUISIANA GAS COMPANY, DOCKET NO. CP66-337

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued July 7, 1966)

On April 25, 1966, Arkansas Louisiana Gas Company (Applicant), filed in Docket No. CP66-337 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and the transportation of natural gas all as more fully set forth in the application.

Applicant seeks authorization to construct and operate a market lateral pipeline from its existing transmission facilities to a new plant constructed by a new industrial customer Arkla Chemical Corporation (Arkla), near Gurdon, Clark County, Arkansas, consisting of approximately 4,000 feet of 3-inch pipeline and appurtenant metering and regulating facilities.

Applicant states that Arkla's annual and peak day natural gas requirements will be approximately 765,000 Mcf and 3,900 Mcf, respectively. The proposed facilities will not increase the capacity of Applicant's main transmission system or modify the total volumes handled by such system on a maximum day. Deliveries of natural gas to Arkla will be made on an interruptible basis pursuant to an agreement dated April 6, 1966.

The total estimated cost of Applicant's proposed construction is $21,290, which will be financed from cash on hand.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on July 6, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits submitted in support of the authorization, and upon consideration of the record,

The Commission finds:

(1) Applicant, Arkansas Louisiana Gas Company, a Delaware corporation having its principal place of business in Shreveport, Louisiana, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of January 26, 1943, in Docket No. G-252 (3 FPC 910).

(2) The proposed construction and operation of facilities and transportation and delivery of natural gas as hereinbefore described, and as more fully described in the application and exhibits in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed construction and operation of facilities, transportation and delivery are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act,

and particularly the general terms and conditions set forth in paragraphs (a) (b), (c)(1) (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to the Applicant in this proceeding, authorizing the construction and operation of facilities and transportation and delivery of up to 3,900 Mcf daily of natural gas as more fully described in the application and exhibits in this proceeding, subject to the jurisdiction of the Commission, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be constructed and placed in actual operation, and transportation of natural gas authorized in paragraph (A) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within one year from the date on which this order issues.

(D) The certificate issued by paragraph (A) above is granted on the express condition that (1) the facilities authorized shall not be used to transport more than 3,900 Mcf daily of interruptible gas to the Arkla Chemical Corporation, (2) the interruptible service authorized herein shall be curtailed or interrupted to the extent required to meet existing or future contracted maximum delivery obligations of Applicant for firm service to its customers, and (3) Applicant shall file with the Commission copies of the contract with Arkla as required by Section 155.1 of the Commission's Regulations under the Natural Gas Act.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

EAST TENNESSEE NATURAL GAS COMPANY, DOCKET NO. G-2268 AND CHATTANOOGA GAS COMPANY v. EAST TENNESSEE NATURAL GAS COMPANY, DOCKET NO. IN-984

FINDINGS AND ORDER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND GRANTING WITHDRAWAL OF INFORMAL COMPLAINT AND ANSWER IN OPPOSITION

(Issued July 7, 1966)

On March 23, 1966, East Tennessee Natural Gas Company (Petitioner) filed in Docket No. G-2268 a petition to amend, as supplemented on May 9, 1966, the Commission's order issued February 19, 1954, 13 FPC 829, in said docket by authorizing Petitioner to transport and deliver to Bowaters Southern Paper Corporation (Bowaters) up to 26,500 Mcf of natural gas per day, on an interruptible basis, in lieu of 9,000 Mcf per day heretofore authorized, all as more full set forth in the petition to amend in this proceeding.

The order of February 19, 1954, authorized Petitioner to construct and operate certain facilities and to transport and deliver to Bowaters at Calhoun, Tennessee, up to 9,000 Mcf of natural gas per day on an interruptible basis. Applicant states that in 1957, it commenced interruptible deliveries to Bowaters in excess of the authorized volumes and that its records do not indicate why it did not attempt to obtain a change in its certificate authorization. Further, Petitioner states that its failure to file for appropriate certificate authorization appears to have been simply an oversight. The actual deliveries made to Bowaters by Petitioner have been accurately reflected in all certificate and rate proceedings concerning Petitioner before the Commission. Petitioner became a subsidiary of Tennessee Gas Transmission Company in November 1959 and the petition indicates that there is no member of East Tennessee's present management who was a member of its management in 1957 when the excess deliveries commenced.

Accordingly, Petitioner requests the order of February 19, 1954, be amended to authorize the increased deliveries. No additional facilities are required.

On January 19, 1966, Chattanooga Gas Company (Chattanooga) telegraphed to the Commission requesting that Petitioner be ordered, among other things, to cease and desist delivering interruptible volumes to Bowaters in excess of 9,000 Mcf per day. Said telegram was considered an informal complaint and assigned Docket No. IN–984. On March 30, 1966, Chattanooga filed in Docket No. G–2268 an answer in opposition to the subject petition to amend. On May 5, 1966, Petitioner and Chattanooga entered into a stipulation and agreement which resulted in the latter agreeing to withdraw its informal complaint and its answer in opposition. Chattanooga authorized Petitioner to file the stipulation and agreement with the Commission, and Petitioner, on May 9, 1966, filed the same as an exhibit to its supplement to the subject petition to amend. On May 2, 1966, Bowaters filed a petition to intervene in support of the subject petition to amend.

Due notice of the filing of the petition to amend and opportunity for hearing thereon has been given by publication in the Federal Register on April 12, 1966 (31 F.R. 5670). No other protest or petition to intervene has been filed in this proceeding.

The Commission finds:

(1) Withdrawal of Chattanooga's answer in opposition in Docket No. G–2268 and its informal complaint in Docket No. IN–984 should be granted.

(2) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's order issued February 19, 1954, in Docket No. G–2268 be amended as hereinafter ordered.

The Commission orders:

(A) The Commission's order issued February 19, 1954, in Docket No. G–2268 is amended by authorizing Petitioner to transport and deliver to Bowaters up to 26,500 Mcf of natural gas per day, on an interruptible basis, in lieu of the 9,000 Mcf per day heretofore authorized in this docket, all as hereinbefore described and as set forth in the petition to amend.

(B) In all other respects said order shall remain in full force and effect.

(C) Withdrawal of Chattanooga's answer in opposition in Docket No. G–2268 and its informal complaint in Docket No. IN–984 is granted.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

GARKANE POWER ASSOCIATION, INC., PROJECT NO. 2219

ORDER FURTHER AMENDING LICENSE (MAJOR)

(Issued July 7, 1966)

Garkane Power Association, Inc., licensee for Project No. 2219, has applied for amendment of its license for the project, located on East and West Forks of Boulder Creek, a tributary of the Escalante River, in Garfield County, Utah, and affecting lands of the United States within the Dixie National Forest and other lands of the United States.

The filings comprising the amendment sought were received in the Commission on February 10, 1960, June 22, 1960, August 15, 1960, August 29, 1962, and October 12, 1964, and seek: (1) Commission approval of an Exhibit F tracing and Exhibit K maps; and (2) Commission approval of the completed enlargement of the tailrace re-regulating pool. Our approval of the filings will enable us, for the first time, to establish the area of lands of the United States occupied by the project works, exclusive of transmission lines, and to fix the annual charges for such occupancy.

The aforementioned filings are more specifically described as follows:

(1) *Filing of February 10, 1960, as revised and refiled on August 29, 1962:*[1] (1) an Exhibit K, Sheet 1 (FPC No. 2219–13) entitled "Boulder Creek Hydroelectric Development—Project Plan", showing the location and surveys for the pipe line, tailrace and Behunin—Lyman irrigation, ditch as follows: the length of the pipe line right-of-way is 4.216 miles, of which 3.919 miles occupies 7.60 acres of National Forest lands; the tailrace right-of-way, 2.041 miles long, occupies 19.80 acres (corrected by license Exhibit K (FPC No. 2219–35) to be 16.59 acres) of National Forest lands; and the Behunin—Lyman ditch right-of-way, 3,000 feet long, occupies 3.12 acres of National Forest lands; (2) an Exhibit K, Sheet 2 (FPC No. 2219–14) entitled "Boulder Creek Hydroelectric Development—Vicinity of Dam", showing the plan of diversion dam and diversion works, typical cross-section of the dam, spillway and tailrace cross-sections and detail of the pipe line crossing the tailrace, all of which works occupying 18.15 acres of lands owned by the licensee; and (3) an Exhibit K, Sheet 3 (FPC No. 2219–15) entitled "Boulder Creek Hydroelectric Development—Powerhouse Vicinity", showing that part of the project area in which are located the power plant, switchyard, operators house, parking area, enlarged re-regulating pool, a portion of the access road, and other appurtenances, involving the occupancy of 16.22 acres of National Forest lands. The exhibit also shows 1.61 acres of National Forest lands as being occupied by the access road from the powerhouse area to the Boulder Mountain—Torrey road.

(2) *Filing of June 22, 1960:* an Exhibit F tracing (FPC No. 2219–34) entitled "Access Road to West Fork Diversion Dam and Pipe Line Location Plan", showing: (a) the access road and East-West pipe line to the forebay reservoir on the East Fork of Boulder Creek as occupying a right-of-way on lands of the United States which Commission staff estimates as being 50 feet wide and comprising 12.63 acres; and (b) the access road plotted on a grid background of quarter sections made from a U.S. Public Land Survey, and also showing the occupancy by the West Fork forebay reservoir of approximately 5 acres of lands of the United States in the SE¼SW¼, section 5, T. 32 S., R. 4 E., Salt Lake Meridian.

(3) *Filing of August 15, 1960:* an amended application covering the construction of diversion dam on the West Fork of Boulder Creek and the aforementioned pipe line to the forebay reservoir on the East Fork of Boulder Creek.

(4) *Filing of August 12, 1964:* an application for amendment of the license to extend the project boundaries and enlarge the tailrace re-regulating pond, in order to facilitate proper regulation and control of the water delivered to irrigation users. Filed with the application was a bluelined print Exhibit K, Sheet 1, entitled "Boulder Hydro Regulating Pool" (undated and uncertified), apparently intended to supersede the aforementioned Exhibit K (FPC No. 2219–15),

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[1] Filed pursuant to Article 29 of the license for the project.

filed August 29, 1962, insofar as the project area boundary and dimensions of the re-regulating tailrace pool are concerned. Information on the filing was sufficient for a computation of the project area as being an increase of 1.32 acres of land of the United States which is included in the 16.22 acres mentioned in subparagraph (1) on page 22 above. In the circumstances, we are not approving Exhibit K (FPC No. 2219-15) but are by Article 35 herein requiring the licensee to file for Commission approval a tracing of above mentioned Exhibit K, Sheet 1, showing the final construction of the enlarged tailrace re-regulating pool.

Based upon the information shown on the aforementioned filings and upon Commission staff computations involving other information available to the staff, it appears that as presently constructed, the project occupies a total of 62.77 acres of land of the United States, of which 61.45 acres were occupied from May 1, 1957, the effective date of the license, through December 31, 1964, after which an additional 1.32 acres of such lands were occupied by the project.

The Commission finds:

(1) The following described exhibits conform to the Commission's rules and regulations and should be approved as part of the license for the project to the extent herein indicated:

Exhibit F (FPC No. 2219-34) "Access Road to West Fork Diversion Dam and Pipe Line Location Plan", filed June 22, 1960.

Exhibit K (FPC No. 2219-13) "Boulder Creek Hydroelectric Development-Project Plan" filed August 29, 1962, except for the tailrace re-regulation pool return ditch survey to the West Fork of Boulder Creek.

Exhibit K (FPC No. 2219-14) "Boulder Creek Hydroelectric Development-Vicinity of Dam" (East Fork) filed, August 29, 1962.

(2) The amount of annual charges under the license for the purpose of recompensing the United States for the use, occupancy, and enjoyment of its lands by the project, exclusive of those occupied by transmission lines, is reasonable as hereinafter fixed and specified.

The Commission orders:

(A) The exhibits described in finding (1) above are hereby approved as part of the license for Project No. 2219 to the extent therein indicated.

(B) The license for Project No. 2219 is hereby further amended, effective as of July 1, 1966, to authorize and include therein as a part of the project works the constructed and enlarged tailrace re-regulation pond, as applied for in the aforementioned application for amendment filed October 12, 1964.

(C) Subparagraph (2) of Article 30 of the license is hereby amended to read:

> (2) For the purpose of recompensing the United States for the use, occupancy and enjoyment of its lands, exclusive of those used for transmission line purposes, the sum of $147.48 per annum effective May 1, 1957, through December 31, 1964, and the sum of $150.65 per annum thereafter.

(D) The license is hereby also amended to include the following additional article:

Article 35. The Licensee shall, within 90 days from the effective date of this order, file for Commission approval a tracing of the bluelined print Exhibit K Sheet 1, entitled "Boulder Hydro Regulating Pool", filed as part of the aforementioned October 12, 1964 application for amendment of license, showing the final construction of the enlarged tailrace re-regulating pool.

(E) This amendment in the manner set out above shall not operate to alter or amend the license in any other respect, and shall not in any way constitute a waiver of any other part, provision or condition of the license.

(F) This order shall become final 30 days from the date of its issuance unless application for rehearing shall be filed as provided in Section 313(a) of the Act, and failure to file such an application shall constitute acceptance of this license amendment. In acknowledgment of the acceptance of this license amendment, it shall be signed for the licensee and returned to the Commission within 60 days from the date of issuance of this order.

Before Commissioners: L. J. O'Connor, Jr., Acting Chairman; Charles R. Ross and David S. Black.

TENNESSEE NATURAL GAS LINES, INC., DOCKET NO. CP66-312

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued July 7, 1966)

On April 1, 1966, Tennessee Natural Gas Lines, Inc. (Applicant) filed in Docket No. CP66-312 an application and a supplement thereto on April 11, 1966, pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application and supplement.

Applicant obtains its entire supply of natural gas from Tennessee Gas Pipeline Company (Tennessee) and delivers and sells natural gas to Nashville Gas Company, for resale in Nashville and several other nearby communities and to three industrial customers for their own use. Applicant states that during periods of heavy demand it operates its system at the pressure available from Tennessee and that this past January it was unable to maintain the necessary pressure at the points of delivery to Nashville Gas Company.

Applicant has filed the instant application requesting authorization for the construction and operation of a 16-inch pipeline looping its existing system from the point of connection with Tennessee's Delta-Portland line to the junction of a lateral extension to Old Hickory, Tennessee, a distance of approximately 5.6 miles, all in Davidson County, Tennessee, in order to alleviate the above described situation.

The total estimated cost of Applicant's proposed construction is $299,315, which cost will be financed initially through the use of bank credit. The bank loan will be repaid from funds generated internally, by the issuance of first mortgage bonds, or by a combination of the two.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on July 6, 1966, the Commission on its own motion received and made a part of the record in this proceeding, all evidence, including the application, supplement and exhibits submitted in support of the authorization, and upon consideration of the record,

The Commission finds:

(1) Applicant, Tennessee Natural Gas Lines, Inc., a Tennessee corporation having its principal place of business in Nashville, Tennessee, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of April 6, 1943, in Docket No. G-575 (4 FPC 1127).

(2) The proposed construction and operation of facilities as hereinbefore described, and as more fully described in the application, supplement and exhibits

in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed construction and operation of facilities are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to the Applicant in this proceeding, authorizing the proposed construction and operation of facilities as described hereinbefore and as more fully described in the application, supplement and exhibits in this proceeding upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The facilities authorized to be constructed and operated by Applicant shall be completed and placed in actual operation, as provided by paragraph (b) of Section 157.20 of the aforesaid Regulations by November 1, 1966.

Before Commissioners: L. J. O'Connor, Jr., Acting Chairman; Charles R. Ross and David S. Black.

TRANSCONTINENTAL GAS PIPE LINE CORPORATION, DOCKET NO. CP66-150

ORDER DENYING MOTION FOR OMISSION OF INTERMEDIATE DECISION AND APPLICATION FOR TEMPORARY CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued July 7, 1966)

On June 7, 1966, Transcontinental Gas Pipe Line Corporation (Transco) filed a motion pursuant to Section 1.30 of the Commission's Rules of Practice and Procedure for omission of the intermediate decision of the Examiner, or in the alternative, pursuant to Section 7(c) of the Natural Gas Act, and Section 157.17 of the Commission's Rules for a temporary certificate authorizing the construction and operation of certain mainline facilities, as well as 28-miles of 16-inch pipeline (herein referred to as the "Tryon lateral") together with certain sales meter and regulator stations.

On May 26, 1966, the Commission granted temporary authority to Transco in Docket Nos. CP65-181 and CP66-233 for the construction of the mainline capacity sufficient to render the 1966-1967 service specified in the motion to Public Service Company of North Carolina, Inc., and Piedmont Natural Gas Company, Inc.

Transco states that the purpose of the lateral line facilities applied for is: (1) to establish two new delivery points for Piedmont Natural Gas Company, Inc. (Piedmont) at or near the communities of Inman and Landrum, South Carolina, which communities presently do not have natural gas service; and (2) to establish a new delivery point for Public Service Company of North Carolina, Inc. (Public Service) at Tryon, North Carolina, for the service of increased requirements of Public Service's existing markets in its Western Division and to enable Public Service to provide natural gas service to certain new communities in said Western Division.

The hearing on Transco's application herein has been completed. Final briefs were filed on May 16, 1966, and the case is now before the Examiner for his initial decision. The reason alleged by Transco for the request to omit the intermediate decision is that "it would appear to be impossible to secure a final decision of the Commission in time" to render the necessary service for the winter season 1966–1967.

Statements and responses in support of the applicant's motion for omission of the Examiner's decision or for a temporary certificate were filed by the North Carolina Natural Gas Corporation, and Piedmont Natural Gas Company, Inc., The Fuels Research Counsel, Inc., National Coal Association and United Mine Workers of America filed a joint answer urging denial of the application for a temporary certificate to construct the Tryon lateral, and also objecting to the omission of the intermediate decision. The coal interests contend that the Tryon lateral is not needed either to meet an emergency situation or to assure maintenance of adequate service to existing customers during 1966–1967.

A response by Transco to the answer of the coal interests was filed on June 27, 1966, pointing out that Piedmont is an existing customer and that the franchise in the town of Inman which was originally granted in 1958 has been extended on at least three occasions, and Piedmont is now required to begin service in 1966 or the franchise will terminate. Transco further argues that without the construction of the Tryon lateral Public Service cannot serve the 1966–1967 requirements of its existing market in its Western Division.

Staff counsel has neither joined or concurred in the request for omission of the intermediate decision, nor objected thereto.

It appears from the arguments submitted with respect to the motion to omit that (a) there is a question as to whether the Tryon lateral is needed by the 1966–1967 winter season in order to take care of the requirements of existing customers; (b) a substantial question has been raised as to the proprietary of the 16-inch lateral to meet both existing and future demands, and (c) the increased requirements of existing customers for the 1966–1967 winter season may be met through existing facilities. A number of other contested factual issues have been raised in the various briefs. The question of Transco's newly adopted lateral line policy is also at issue in this proceeding. In view of the issues raised, an Examiner's decision herein appears to be most appropriate, and consideration of the extent, if any, of any temporary authorization which might be required prior to final decision can and should await a more specific showing made in the light of said Examiner's decision.

The Commission finds:

(1) It does not appear to be in the public interest to grant Transco's motion for omission of the Hearing Examiner's decision. The due and timely exercise of the Commission's functions does not imperatively require the omission of an intermediate decision.

(2) There is no showing of a clearly defined emergency which would justify grant of any temporary certificate authorizing the construction of all or part of the Tryon lateral at this time.

The Commission orders:

(A) The motion by Transco for omission of intermediate decision herein is denied.

(B) The application for a temporary certificate of public convenience and necessity to construct the Tryon lateral and the related meter stations is hereby denied without prejudice.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

UNITED GAS PIPE LINE COMPANY, DOCKET NO. CP66–210

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued July 7, 1966)

On December 28, 1965, United Gas Pipe Line Company (Applicant) filed in Docket No. CP66–210, as supplemented on March 4 and March 29, 1966, an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities in order to sell and deliver natural gas to International Paper Company (International) in Warren County, Mississippi, all as more fully set forth in the application in this proceeding.

Specifically, Applicant proposes to construct and operate approximately 18 miles of 12-inch pipeline, together with a meter station and appurtenant facilities, beginning at a point on Applicant's 18-inch Sterlington to Jackson pipeline and extending northerly in Warren County, Mississippi. The estimated peak day and annual requirements for International are 27,700 Mcf and 8,000,000 Mcf, respectively.

International will utilize natural gas at its new paper and pulp plant in Warren County largely for the production of steam for processing purposes and power generation.

Applicant and International have entered into an agreement, dated November 8, 1965, providing for the proposed sale. Gas will be sold at a rate of 26 cents per Mcf.

Total estimated cost of the proposed facilities is $894,930, which cost will be financed out of current working funds.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on June 29, 1966, the Commission on its own motion received and made a part of the record in this proceeding, all evidence, including the application, supplements, and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, United Gas Pipe Line Company, a Delaware corporation having its principal place of business in Shreveport, Louisiana, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of January 20, 1942, in Docket No. G–216 (3 FPC 3).

(2) The facilities hereinbefore described, as more fully described in the application, as supplemented, in this proceeding, are to be used in the transportation and delivery of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof and the proposed

transportation and delivery of natural gas by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities and the proposed transportation and delivery of natural gas by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4) and (e) of Section 157.20 of such Regulations.

(6) Deliveries of natural gas by Applicant to International, as hereinafter authorized, should be limited to a maximum of 27,700 Mcf per day.

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Applicant, United Gas Pipe Line Company, to construct and operate the proposed facilities and to transport and deliver natural gas as hereinbefore described, all as more fully described in the application, as supplemented, in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4) and (e) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be constructed and placed in actual operation and the transportation and delivery of natural gas authorized in paragraph (A) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within six months from the date on which this order issues.

(D) Deliveries of natural gas by Applicant to International, as authorized in paragraph (A) above, shall be limited to a maximum of 27,700 Mcf.

(E) This certificate shall not entitle the industrial customer to whom firm deliveries are authorized herein to any priorities to additional gas for meeting any future increases in its requirements at the expense of firm resale customers desiring to acquire additional gas to meet any future increase in their requirements.

Before Commissioners: L. J. O'Connor, Jr., Acting Chairman; Charles R. Ross and David S. Black.

UNITED GAS PIPE LINE COMPANY, DOCKET NO. CP66-280

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued July 7, 1966)

On February 28, 1966, United Gas Pipe Line Company (Applicant), filed in Docket No. CP66-280 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities for the sale of natural gas to St. Regis Paper Company (St. Regis), to be used in St. Regis' pulp and paper mill located near the Town of Wanilla, Lawrence County, Mississippi, pursuant to a contract between the parties dated February 7, 1966, all as more fully set forth in the application.

Applicant proposes to construct approximately 7.35 miles of 8-inch pipeline, beginning at approximately Milepost 190.7 on its 30-inch offshore to Kosciusko main line and extending in an easterly direction to a point in the Southeast ¼ of Section 26, Township 8 North, Range 21 West, Lawrence County, Mississippi.

The total estimated volumes of natural gas necessary to meet St. Regis' annual and peak day requirements for the initial three year period of proposed operations are stated to be:

	First year	Second year	Third year
Annual (Mcf)	3,920,000	9,000,000	9,000,000
Peak day (Mcf)	32,000	32,000	32,000

The total estimated cost of Applicant's proposed construction is $368,801 which cost will be financed out of current working funds.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on July 6, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, and exhibits submitted in support of the authorization, and upon consideration of the record,

The Commission finds:

(1) Applicant, United Gas Pipe Line Company, a Delaware corporation having its principal place of business in Shreveport, Louisiana, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of November 10, 1942, in Docket No. G–232 (3 FPC 863).

(2) The proposed construction and operation of facilities and transportation and delivery of natural gas as hereinbefore described, and as more fully described in the application, and exhibits in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed construction and operation of facilities and transportation and delivery of natural gas are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to the Applicant in this proceeding, authorizing the construction and operation of facilities and transportation and delivery of up to 32,000 Mcf per day of natural gas all as more fully described in the application and exhibits in this proceeding, subject to the jurisdiction of the Commission, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The transportation of gas authorized in paragraph (A) above shall commence as provided in paragraph (b) of Section 157.20 of the aforesaid Regulations within 3 months of the date on which this order issues.

(D) The certificate issued by paragraph (A) above shall not entitle the industrial customer to whom firm deliveries are authorized herein to any priorities or rights to additional gas for meeting any future increases in its requirements at the expense of firm resale customers desiring to acquire additional gas to meet any future increase in their requirements.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

UNITED GAS PIPE LINE COMPANY, DOCKET NO. CP66-300

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued July 7, 1966)

On March 22, 1966, United Gas Pipe Line Company (Applicant) filed in Docket No. CP66-300 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction in two phases and operation of certain natural gas facilities to provide additional capacity to its existing pipeline system in order to meet the anticipated requirements of Applicant's Jackson District, all as more fully set forth in the application in this proceeding.

Specifically, Applicant proposes to construct and operate the following facilities:

Phase I—1967 Construction—two 7,500 horsepower natural gas turbine driven centrifugal compressors, together with appurtenant facilities, for the proposed new Florenville Compressor Station on Applicant's existing southeast Louisiana to Mobile 30-inch pipeline in Tammany Parish, Louisiana,

Phase II—1968 Construction—(1) approximately 19.7 miles of 30-inch pipeline loop on Applicant's existing offshore to Kosciusko 30-inch pipeline, Assumption and Ascension Parishes, Louisiana.

(2) approximately 1.4 miles of 16-inch pipeline looping the 10-inch portion of Applicant's Hollywood-Houma Field to Lirette-Napoleonville main line, Terrebonne Parish, Louisiana, and

(3) approximately 8.9 miles of 20-inch pipeline loop on Applicant's existing Turtle Bayou Junction to Kent Bayou Field 20-inch lateral, Terrebonne Parish, Louisiana.

Applicant states that the proposed facilities are necessary to meet the increased and increasing requirements of its customers in its Jackson District. Further, the declining local supplies of gas in the Jackson District make it necessary that Applicant provide additional pipeline deliveries of gas into this District.

The total estimated cost of Applicant's proposed facilities is $8,371,711.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on June 29, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, United Gas Pipe Line Company, a Delaware corporation having its principal place of business in Shreveport, Louisiana, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of January 20, 1942, in Docket No. G-216 (3 FPC 3).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are to be used in the transportation and sale of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Applicant, United Gas Pipe Line Company, to construct and operate the proposed facilities as hereinbefore described, all as more fully described in the application in this proceeding.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations. The reports required by paragraphs (c)(1), (c)(3) and (c)(4) shall be made with respect to both phases of construction.

(C) The facilities authorized in Phase I and Phase II shall be constructed and placed in actual operation, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations, by November 1, 1967, and November 1, 1968, respectively.

Before Commissioners: L. J. O'Connor, Jr., Acting Chairman; Charles R. Ross and David S. Black.

EL PASO NATURAL GAS COMPANY, DOCKET NO. CP66-223

FINDINGS AND ORDER AFTER STATUTORY HEARING PERMITTING AND APPROVING ABANDONMENT OF FACILITIES

(Issued July 8, 1966)

On January 11, 1966, El Paso Natural Gas Company (Applicant) filed in Docket No. CP66-223, as supplemented on March 15, 1966, an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain natural gas compressor facilities at its Aneth Compressor Station, San Juan County, Utah, and certain compressor and field transmission facilities in the Bisti area, San Juan County, New Mexico, all as more fully set forth in the application, as supplemented, in this proceeding.

Specifically, Applicant proposes to abandon 15,600 horsepower at its Aneth Compressor Station which Station was constructed and placed in operation for the purpose of compressing casinghead gas produced in the Aneth area. Applicant states that the casinghead gas now available in the Aneth area can be compressed without utilization of a 15,600 portion of the 28,400 compressor horsepower installed at the Station. Further, Applicant states that its six Bisti Field Compressor Stations and certain field transmission pipelines were constructed and placed in operation for the purpose of compressing casinghead gas produced in the Bisti area and, thereafter, transporting such gas to Applicant's Chaco Plant. The casinghead gas now available in the Bisti area can be compressed and transported without utilization of four of the six stations and a portion of the field transmission lines. Therefore, Applicant proposes to abandon 4,580 compressor horsepower and 3.6 miles of 8-inch and 11.2 miles of 10-inch field transmission lines in the Bisti area.

Applicant proposes to abandon the subject pipeline in place and to remove, salvage and retire to inventory the compressor facilities to be abandoned. Applicant states that the transmission lines will be abandoned in place because the Bisti area is a potential source of high pressure gas production and that there may be a possible future use for the pipeline facilities in their present location. Applicant should file with the Commission for appropriate authorization for any future removal or re-use of the Bisti pipeline facilities.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on July 6, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, supplement and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, El Paso Natural Gas Company, a Delaware corporation having its principal place of business in El Paso, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of January 11, 1944, in Docket No. G-288 (4 FPC 486).

(2) The facilities to be abandoned in this proceeding, as hereinbefore described, are subject to the jurisdiction of the Commission, and the abandonment of such facilities is subject to the requirements of Subsection (b) of Section 7 of the Natural Gas Act.

(3) Such abandonment by Applicant, as hereinbefore described, is permitted by the public convenience and necessity and should be approved as hereinafter ordered.

(4) The estimated original cost of salvageable pipe hereinafter authorized to be abandoned in the Bisti area, should be charged to Account 154, Plant Materials and Operating Supplies, with a corresponding credit to Account 108, Accumulated Provision for Depreciation of Gas Plant in Service.

(5) Applicant should file with the Commission for appropriate authorization for any future removal or re-use of the Bisti pipeline facilities.

The Commission orders:

(A) Permission for and approval of the abandonment by Applicant of the facilities hereinbefore described, all as more fully described in the application, as supplemented, in this proceeding, are granted.

(B) Applicant shall advise the Commission of the date of abandonment within 15 days of the date thereof.

(C) The estimated original cost of salvageable pipe, authorized in paragraph (A) above to be abandoned in the Bisti area, shall be charged to Account 154, Plant Materials and Operating Supplies, with a corresponding credit to Account 108, Accumulated Provision for Depreciation of Gas Plant in Service.

(D) Applicant shall file with the Commission for appropriate authorization for any future removal or re-use of the Bisti pipeline facilities.

Before Commissioners: L. J. O'Connor, Jr., Acting Chairman; Charles R. Ross and David S. Black.

KENTUCKY GAS TRANSMISSION CORPORATION, DOCKET NO. CP66-341

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued July 8, 1966)

On April 28, 1966, Kentucky Gas Transmission Corporation (Applicant), filed in Docket No. CP66-341 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 8.6-miles of 12-inch natural gas transmission pipeline in Madison County, Kentucky, all as more fully set forth in the application.

The proposed facilities will replace an 8.6-mile segment of an existing 8-inch transmission pipeline extending from the Kentucky River to a point in Estill County, Kentucky, a distance of approximately 25 miles. Applicant states that the particular 8.6-mile segment should be replaced due to the growth in the natural gas market around the city of Lexington and in Fayette County, Kentucky, and the deteriorated condition of the existing 8-inch pipeline.

The proposal is a continuation of one part of a plan described in its joint application with United Fuel Gas Company, an affiliate, filed in Docket No. CP65-324 on April 9, 1965. The plan involves the modernization of Applicant's system serving utilities on the southwestern end of its operating territory.

The estimated cost of construction of the proposed replacement segment is $362,900, which will be financed by the sale of notes and common stock to The Columbia Gas System, Inc., Applicant's parent company.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on July 6, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits submitted in support of the authorization sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, Kentucky Gas Transmission Company, a Delaware corporation having its principal place of business in Charleston, West Virginia, is a

"natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of August 10, 1956, in Docket No. G-9689 (16 FPC 437).

(2) The proposed construction and operation of facilities and transportation of natural gas by Applicant as hereinbefore described, and as more fully described in the application and exhibits in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid construction and operation of facilities and transportation of natural gas are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Kentucky Gas Transmission Company in this proceeding, authorizing the construction and operation of facilities and the transportation of natural gas as hereinbefore described and as more fully described in the application and exhibits in this proceeding, subject to the jurisdiction of the Commission, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be completed and placed in actual operation, as provided by paragraph (b) of Section 157.20 of the aforesaid Regulations within 12 months of the date on which this order issues.

Before Commissioners: L. J. O'Connor, Jr., Acting Chairman; Charles R. Ross and David S. Black.

MISSOURI POWER & LIGHT COMPANY AND PANHANDLE EASTERN PIPE LINE COMPANY, DOCKET NO. CP66-304

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued July 8, 1966)

On March 24, 1966, Missouri Power & Light Company (Applicant) filed in Docket No. CP66-304 an application pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Panhandle Eastern Pipe Line Company (Respondent) to establish physical connection of its transportation facilities with the facilities proposed to be constructed by Applicant and to sell and deliver to Applicant up to 168 Mcf of natural gas per day for resale and distribution in the community of Jamestown, Moniteau County, Missouri, all as more fully set forth in the application.

Applicant proposes to construct and operate approximately 6.6 miles of 3-inch transmission pipeline extending in a northerly direction from Respondent's main transmission line together with a distribution system consisting of approximately 14,500 feet of 2-inch pipeline and appurtenant facilities.

On March 2, 1965, the City of Jamestown, Missouri, granted Applicant a franchise to construct and operate the necessary facilities and to sell gas to the public in Jamestown. The Missouri Public Service Commission granted Applicant a certificate authorizing the proposed service.

The total estimated volume of natural gas necessary to meet Applicant's annual and peak day requirements for the first three full years of proposed operations are stated to be:

	First year	Second year	Third year
Annual (Mcf)	10,121	13,942	15,974
Peak day (Mcf)	129	148	168

The total estimated cost of Applicant's proposed transmission and distribution systems is $143,400, which will be financed from treasury funds and proceeds from unsecured short term bank loans.

On March 30, 1966, Respondent was duly advised of the application filed in this proceeding, and due notice of the filing and opportunity for hearing thereon has been given by publication in the Federal Register on April 12, 1966 (31 F.R. 5672). No protest, petition to intervene or request for hearing has been filed in this proceeding.

The Commission finds:

(1) Panhandle Eastern Pipe Line Company, a Delaware corporation having its principal place of business in Kansas City, Missouri, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of October 17, 1945, in Docket No. G–254 (4 FPC 1081).

(2) Applicant is legally authorized to engage in the local distribution of natural gas to the public within the meaning of Section 7(a) of the Natural Gas Act.

(3) It is necessary and desirable in the public interest to direct Respondent to establish physical connection of its transmission facilities with the facilities proposed to be constructed and operated by Applicant, and to sell and deliver to Applicant under a service agreement to be executed by Applicant with Respondent in accordance with the Commission's Regulations, up to 168 Mcf per day of natural gas for distribution and resale as hereinbefore described and as more fully described in the application in this proceeding.

(4) The requirement that Respondent serve Applicant as hereinafter ordered, will not impair Respondent's ability to render adequate service to its existing customers.

(5) Applicant should be prepared to receive natural gas from Respondent for distribution in the City of Jamestown, Missouri, and environs, within one year from the date of issuance of this order.

The Commission orders:

(A) Panhandle Eastern Pipe Line Company is directed to establish physical connection of its facilities with the facilities proposed to be constructed and operated by Applicant, as herein described, and to sell and deliver up to 168 Mcf of natural gas daily to Applicant under a service agreement to be executed by Applicant with Respondent in accordance with the Commission's Regulations. Such service shall be rendered pursuant to Panhandle Eastern's currently filed appropriate rate schedule.

(B) Respondent shall report to the Commission in writing the date of commencement of service to Applicant within 10 days after such service begins.

(C) Applicant shall be prepared to receive service as directed, herein, within one year from the date of issuance of this order.

Before Commissioners: L. J. O'Connor, Jr., Acting Chairman; Charles R. Ross and David S. Black.

NATURAL GAS PIPELINE COMPANY OF AMERICA, DOCKET NO. CP66-378

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued July 8, 1966)

On May 18, 1966, Natural Gas Pipeline Company of America (Applicant), filed an application in Docket No. CP66-378 pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of an additional daily contract quantity of 1,500 Mcf of natural gas to Wisconsin Southern Gas Company (Wisconsin Southern), an existing customer, all as more fully set forth in the application.

Wisconsin Southern has requested an increase of 1,500 Mcf per day in its CD-1 contract demand over that authorized by the Commission in Docket No. CP66-169. On January 28, 1966, the temperature in Wisconsin Southern's service area was —14°F as compared to the —10°F previously used for requirement estimates. The additional volume of 1,500 Mcf per day will increase Wisconsin Southern's total CD-1 demand to 22,534. Wisconsin Southern will also have available to it 6,558 Mcf per day under Natural's Storage Rate Schedule S-1.

No additional facilities will be required to make the proposed sale and delivery.

After due notice no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on July 6, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, Natural Gas Pipeline Company of America, a Delaware corporation having its principal place of business in Chicago, Illinois, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of November 7, 1958, in Docket No. G-9966 (20 FPC 694).

(2) The proposed sale and delivery of natural gas by Applicant to Wisconsin Southern Gas Company as hereinbefore described, and as more fully described in the application, in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed sale and delivery of natural gas is required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a) and (e) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, Natural Gas Pipeline Company of America, authorizing the sale and delivery of natural gas to Wisconsin Southern Gas Company, as hereinbefore described and as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a) and (e) of Section 157.20 of such Regulations.

(C) Applicant and Wisconsin Southern Gas Company shall execute a superseding service agreement in accordance with the Commission's Regulations reflecting the increase in daily contract quantity and file the same with the Commission within 30 days after the issuance of this order.

Before Commissioners: L. J. O'Connor, Jr., Acting Chairman; Charles R. Ross and David S. Black.

NATURAL GAS PIPELINE COMPANY OF AMERICA, DOCKET NO. CP66-386

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued July 8, 1966)

On May 24, 1966, Natural Gas Pipeline Company of America (Applicant), filed in Docket No. CP66-386 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities to permit increased flexibility in the operation of its Gulf Coast pipeline, all as more fully set forth in the application.

Applicant seeks authorization to construct and operate approximately 22.5 miles of 30-inch loop pipeline on its Gulf Coast pipeline in Victoria and Jackson

Counties, Texas, and modification to its Compressor Station No. 341 gas turbine engines so as to increase the horsepower thereof from 5,490 SHP to 6,330 SHP.

The added flexibility to be achieved through the facilities proposed by the instant application will among other things afford it the ability to attach gas supplies to its system south of its Compressor Station No. 301 for periods of short or long duration in the event of a supply curtailment on its systems, as well as the attachment and utilization of new long term contracted supplies.

The total estimated cost of Applicant's proposed facilities is $2,832,292, which cost will be financed from funds on hand.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on July 6, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, Natural Gas Pipeline Company of America, a Delaware corporation having its principal place of business in Chicago, Illinois, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of November 7, 1958, in Docket No. G-9966 (20 FPC 694).

(2) The proposed construction and operation of facilities by Applicant as hereinbefore described, and as more fully described in the application in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed construction and operation of facilities are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, authorizing the construction and operation of facilities as hereinbefore described and as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be completed and placed in actual operation, as provided in paragraph (b) of Section 157.20 of the aforesaid Regulations within 12 months of the date on which this order issues.

Before Commissioners: L. J. O'Connor, Jr., Acting Chairman; Charles R. Ross and David S. Black.

NATURAL GAS PIPELINE COMPANY OF AMERICA, DOCKET NO. CP66-391

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued July 8, 1966)

On May 26, 1966, Natural Gas Pipeline Company of America (Applicant), filed in Docket No. CP66-391 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of an additional daily contract quantity of 2,200 Mcf of natural gas to Interstate Power Company (Interstate), an existing customer of Applicant, all as more fully set forth in the application.

Interstate has requested an additional daily contract quantity of 2,200 Mcf of gas, commencing October 1, 1966, to meet the increase in firm requirements of the industrial customers which it serves in Clinton, Iowa. This is in addition to the 600 Mcf per day under Rate Schedule CD-1 allocated by Natural to Interstate Power in Docket No. CP66-169. Applicant states that its existing service agreements with Interstate, on file with the Commission, provide for peak day deliveries of 27,934 Mcf under Rate Schedule CD-1.

Applicant will not require additional facilities to make the proposed sale.

After due notice no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on July 6, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, Natural Gas Pipeline Company of America, a Delaware corporation having its principal place of business in Chicago, Illinois, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of November 7, 1958, in Docket No. G-9966 (20 FPC 694).

(2) The proposed sale and delivery of natural gas by Applicant to Interstate Power Company as hereinbefore described, and as more fully described in the application, in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed sale and delivery of natural gas is required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a) and (e) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, authorizing the sale and delivery of natural gas to Interstate Power Company, as hereinbefore described and as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a) and (e) of Section 157.20 of such Regulations.

(C) Applicant and Interstate Power Company shall execute a superseding service agreement in accordance with the Commission's Regulations reflecting the increase in daily contract quantity and file the same with the Commission within 30 days after the issuance of this order.

Before Commissioners: L. J. O'Connor, Jr., Acting Chairman; Charles R. Ross and David S. Black.

NIAGARA MOHAWK POWER CORPORATION, DOCKET NO. E-7241

ORDER DEFERRING REQUIREMENT TO FILE SPECIAL REPORT

(Issued July 8, 1966)

In our order issued December 30, 1965, 34 FPC 1603, approving the merger of the facilities of Paul Smith's Electric Light & Power & Railroad Company (Paul Smith) with those of Niagara Mohawk Power Corporation (Niagara Mohawk) we noted that Niagara Mohawk proposed to make its scheduled rates and charges for residential, commercial and industrial service available to the retail customers of Paul Smith inasmuch as such rates are substantially less than the rates charged by Paul Smith. However, Niagara Mohawk did not propose an immediate change in the wholesale rates of Paul Smith to two municipal systems, Lake Placid and Tupper Lake, New York, but stated it intended to review them. Paul Smith's wholesale rates to these municipalities exceeded the rate level of Niagara Mohawk's wholesale electric rates in the same general area of Lake Placid and Tupper Lake.

We provided in ordering clause (D) that Niagara Mohawk shall on or before April 1, 1966, submit a special cost of service report showing Niagara Mohawk's cost of serving all of its comparable wholesale customers, including Lake Placid and Tupper Lake, New York.

By order issued March 29, 1966 [unreported] the Commission extended the time for filing the cost of service study to June 1, 1966. Niagara Mohawk now states that it will file for service to Tupper Lake and Lake Placid, the lower rates, applicable to other wholesale customers in its Eastern Division to become effective April 1, 1967, and requests that the Commission defer action on its requirement to submit cost and revenue data requested by the Commission in its order issued December 30, 1965.

At the present time, Niagara Mohawk is serving Tupper Lake and Lake Placid, with power purchased from New York State Electric and Gas Company (NYSEG) under an agreement which NYSEG refuses to cancel in advance of its termination date of June 30, 1967. Niagara Mohawk now has under construction a 42-mile 115 kv transmission line to connect the Paul Smith system with its interconnected system. Niagara Mohawk has submitted a construction schedule for the 115 kv line showing that the construction is well under way and the projected completion date is April 1, 1967.

In view of Niagara Mohawk's representation that it will file the lower rate schedules for Lake Placid and Tupper Lake to become effective April 1, 1967, it is not unreasonable to permit deferment of further action in this proceeding prior to the filing of the reduced rates to Lake Placid and Tupper Lake.

The Commission orders:

The requirement for filing the special report of cost and revenue data as provided in ordering clause (D) of our order issued December 30, 1965 is hereby deferred pending the filing of the lower rate schedules for Lake Placid and Tupper Lake on or before April 1, 1967.

Before Commissioners: L. J. O'Connor, Jr., Acting Chairman; Charles R. Ross and David S. Black.

NORTHERN NATURAL GAS COMPANY, DOCKET NO. CP66-370

FINDINGS AND ORDER AFTER STATUTORY HEARINGS PERMITTING AND APPROVING ABANDONMENT

(Issued July 8, 1966)

On May 16, 1966, Northern Natural Gas Company (Applicant), filed in Docket No. CP66-370 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain natural gas facilities in Yoakum County, Texas, and Washington County, Minnesota, all as more fully set forth in the application.

Applicant proposes to abandon and remove its measuring station located in Section 20, Block K, Public School Land, Yoakum County, Texas, which consists of a 500B meter and appurtenances, utilized by Applicant in delivering natural gas to the Madison Corporation (Madison), formerly W. D. McBee, Jr., for resale as irrigation pump fuel. Applicant also proposes to abandon and remove its measuring station located in Section 1, Township 28N, Range 21W, Washington County, Minnesota, consisting of a 500B meter and appurtenances, used to deliver natural gas to its Peoples Natural Gas Division (Peoples) for resale to the Durox Management Company (Durox), formerly Durox of Minnesota.

Applicant has been given written notice of cancellation by Madison Corporation advising that its Yoakum County Distribution System will no longer be operated. Applicant has also been advised by Peoples that Durox is no longer operating its plant and has no plans for reopening the plant in the future.

After due notice, no petition to intervene, notice of intervention, or protest to the granting of the application has been filed.

At a hearing held on July 6, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, Northern Natural Gas Company a Delaware corporation having its principal place of business in Omaha, Nebraska, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of April 6, 1943, in Docket No. G-280 (3 FPC 967).

(2) The facilities proposed to be abandoned, as hereinbefore described and as more fully described herein, are used in the transportation and sale of natural gas in interstate commerce subject to the jurisdiction of the Commission, and such abandonment is subject to the requirements of Subsection (b) of Section 7 of the Natural Gas Act.

(3) The proposed abandonment of the aforesaid facilities is permitted by the public convenience and necessity and approval thereof should be granted as hereinafter ordered.

The Commission orders:

(A) Permission for and approval of the abandonment of the facilities hereinbefore described, and as more fully described in the application in this proceeding, are granted to Applicant, Northern Natural Gas Company.

(B) Applicant shall advise the Commission of the date of abandonment of the facilities as authorized in paragraph (A) above within 10 days of such abandonment.

Before Commissioners: L. J. O'Connor, Jr., Acting Chairman; Charles R. Ross and David S. Black

NORTHERN STATES POWER COMPANY, DOCKET NO. E-7295

ORDER AUTHORIZING THE ISSUANCE OF FIRST MORTGAGE BONDS

(Issued July 8, 1966)

Northern States Power Company (Applicant), incorporated under the laws of the State of Minnesota and doing business in the States of Minnesota, North Dakota and South Dakota, with its principal place of business in Minneapolis, Minnesota, filed an application, on May 27, 1966, for authority, pursuant to Section 204 of the Federal Power Act, to issue and sell at competitive bidding $45,000,000, principal amount of First Mortgage Bonds, due 1996.

Applicant proposes to issue the Bonds under a Trust Indenture, dated February 1, 1937 from Applicant to Harris Trust and Savings Bank of Chicago, Trustee, as heretofore supplemented and as to be further supplemented by a proposed new Supplemental Indenture to be dated as of August 1, 1966. The new Bonds will be dated as of August 1, 1966 and will mature on August 1, 1996. The interest rate of the Bonds will be determined by competitive bidding.

The Applicant intends on or about July 19, 1966, to invite sealed, written proposals for the purchase from it of the $45,000,000 new Bonds. The Statement of Terms and Conditions Relating to Bids will contain the following principal provisions:

Each proposal, which may be made by a single bidder or by a group of bidders, must be for the purchase of all the Bonds. No bidder may submit or participate in more than one proposal. Proposals must be submitted to the Applicant at or before 10:00 A.M., CDST, on July 27, 1966, at 8th Floor Assembly Room, Harris Trust and Savings Bank, 111 West Monroe Street, Chicago, Illinois. Each proposal must be accompanied by a deposit in the amount of $450,000.

Each proposal shall specify: (a) the annual interest rate to be borne by the Bonds, which rate shall be a multiple of ⅛ of 1%, and (b) the price (exclusive of accrued interest) to be paid to the Applicant, which price shall not be less than 99% and not more than 102¾% of principal amount thereof. Each proposal shall provide that accrued interest from August 1, 1966, to the date of payment for the

Bonds and delivery thereof will be paid by the purchaser or purchasers to the Applicant.

Unless the Applicant shall reject all bids or exclude a bid or bids for reasons set forth in the Statement of Terms and Conditions, it will accept the bid which provides for the lowest annual cost of money.

The Commission, in an order issued on May 23, 1966, Docket No. E-7284, 35 FPC 761 authorized the Applicant to issue up to $40,000,000 short-term notes to furnish a portion of the funds for the Applicant's 1966 construction program.

The net proceeds from the $45,000,000 new Bonds will be used to pay short-term notes which are estimated to total about $32,000,000 on the date of the issuance and delivery of the new Bonds, and also used to furnish a portion of the funds for the Applicant's construction program.

Applicant states that its construction program has an estimated cost $74,600,000 in 1966. Included among Applicant's principal expenditures for its 1966 construction program are approximately $29,500,000 for its Allen S. King plant in Oak Park Heights, Minnesota, $3,800,000 for construction of approximately 100 miles of 345 kv transmission line from the Red Rock Substation to Adams Substation, $484,000 for the installation of transmission line outlet facilities at the Allen S. King plant, $502,000 for construction of 23.5 miles of 345 kv transmission line from Allen S. King plant to Terminal Substation, $779,000 for the installation of Terminal facilities at the Red Rock Substation, $1,535,000 for the installation of substation and line terminal facilities for the Allen S. King plant, and approximately $17,969,000 for distribution facilities.

Written notice of the application has been given to the Minnesota Railroad and Warehouse Commission, the North Dakota Public Service Commission, and the South Dakota Public Utilities Commission and to the Governor of each of those States. Notice has also been given by publication in the Federal Register on June 9, 1966 (31 F.R. 8145), stating that any person desiring to be heard or to make any protest with reference to the application, shall file petitions or protests on or before June 27, 1966, with the Federal Power Commission, Washington, D.C. 20426. No protest, petition or request to be heard in opposition to the granting of the application has been received.

On June 1, 1966 Public Service Commission of North Dakota issued an order approving the issuance of the proposed first mortgage bonds.

The Commission finds:

(1) Applicant, a corporation, is a public utility within the meaning of Section 204 of the Federal Power Act, subject to the jurisdiction of the Commission as heretofore described and set forth in the Commission's order issued May 3, 1965, *Northern States Power Company*, Docket No. E-7202 (33 FPC 942).

(2) The proposed issuance and sale of Bonds, as described above, will constitute an issuance of securities within the purview of Section 204 of the Act.

(3) Applicant is not organized and operating in a State under the laws of which the security issue here involved is regulated by a State commission within the meaning of Section 204 (f) of the Act; and the proposed issuance of securities is, therefore, not exempt by virtue of that Section from the requirements of Section 204 of the Act.

(4) The proposed issuance and sale of Bonds, as hereinafter authorized, will be for a lawful object, within the corporate purposes of Applicant and compatible with the public interest, which is appropriate for and consistent with the proper performance by Applicant of service as a public utility and which will not impair its ability to perform that service, and is reasonably necessary and appropriate for such purposes.

The Commission orders:

(A) The proposed issuance and sale of Bonds, upon the terms and conditions and for the purposes specified in the application, as described above, are authorized, subject to the provisions of this order.

(B) The proposed issuance and sale of Bonds at competitive bidding shall not be consummated until:

(i) Applicant shall have amended its application pursuant to the requirements of Section 34.2(g) of the Commission's Regulations under the Federal Power Act relating to compliance with competitive bidding requirements, and Section 34.2 (h) of those Regulations relating to affiliation and shall have either filed such amendments or shall have mailed them and advised the Commission by telephone and telegraph, as contemplated in Section 34.9 of the Regulations;

(ii) The Commission, by further order, shall have approved the price to be received by Applicant for the proposed issuance of Bonds and the interest rate thereof.

(C) This authorization shall expire unless the transaction hereby authorized is consummated within 90 days from the date of issuance of this order.

(D) The foregoing authorization is without prejudice to the authority of this Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates or determinations of cost, or any other matter whatsoever now pending or which may come before this Commission.

(E) Nothing in this order shall be construed to imply any guarantee or obligation on the part of the United States with respect to any securities to which this order relates.

Before Commissioners: L. J. O'Connor, Jr., Acting Chairman; Charles R. Ross and David S. Black.

CITY OF RIDGETOP, TENNESSEE AND TENNESSEE GAS TRANSMISSION COMPANY, DOCKET NO. CP66-302

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued July 8, 1966)

On March 23, 1966, the City of Ridgetop, Tennessee (Applicant) filed in Docket No. CP66-302 an application and a supplement thereto on April 22, 1966, pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Tennessee Gas Transmission Company (Respondent) to establish physical connection of its transportation facilities with the facilities proposed to be constructed by Applicant and to sell and deliver to Applicant up to 227 Mcf of natural gas daily for resale and distribution in Applicant, all as more fully set forth in the application, as supplemented.

Applicant proposes to construct, own and operate a natural gas distribution system in the city. The distribution system will include 29,400 feet of 4.5-inch line extending from Tennessee's transmission system eastward, to and through the area to be served.

The total estimated volumes of natural gas necessary to meet Applicant's annual and peak day requirements for the initial three year period of proposed operations are stated to be:

	First year	Second year	Third year
Annual (Mcf)	12,975	15,775	18,250
Peak day (Mcf)	156	193	227

The total estimated cost of Applicant's proposed distribution system is $115,000, which cost will be financed by the sale of revenue bonds.

Applicant is a municipality organized under the laws of Tennessee and is legally authorized to construct and operate gas distribution facilities.

On May 2, 1966, Respondent filed an answer to the application in the proceeding stating it does not oppose the granting of the application and can render the requested service through utilization of a portion of its existing unallocated capacity.

Due notice of the filing of the subject application and opportunity for hearing thereon have been given by publication in the Federal Register on April 7, 1966 (31 F.R. 5530). No protest, petition to intervene, notice of intervention or request for hearing has been filed in this proceeding.

The Commission finds:

(1) Tennessee Gas Transmission Company, a Delaware corporation having its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order issued July 12, 1947, in Docket No. G–910 (6 FPC 777).

(2) Applicant, City of Ridgetop, Tennessee, is legally authorized to engage in the local distribution of natural gas to the public within the meaning of Section 7(a) of the Natural Gas Act.

(3) It is necessary and desirable in the public interest to direct Respondent to establish physical connection of its transmission facilities with the facilities proposed to be constructed and operated by Applicant, and to sell and deliver to Applicant under a service agreement to be executed by Applicant with Respondent in accordance with the Commission's Regulations, up to 227 Mcf per day of natural gas for distribution and resale as hereinbefore described and as more fully described in the application and supplement in this proceeding.

(4) Applicant should be prepared to receive natural gas from Respondent for distribution in the City of Ridgetop, Tennessee and environs, within one year from the date of the issuance of this order.

(5) The requirement that Respondent serve Applicant, as requested, will not place an undue burden upon it nor impair its ability to render adequate service to its existing customers.

The Commission orders:

(A) Tennessee Gas Transmission Company, Respondent, is directed to establish physical connection of its facilities with the facilities proposed to be constructed and operated by Applicant, as herein described, and to sell and deliver up to 227 Mcf of natural gas daily to Applicant under a service agreement to be executed by Applicant with Respondent in accordance with the Commission's Regulations, for distribution and resale as hereinbefore described and as more fully described in the application in this proceeding. Such service shall be rendered pursuant to Tennessee's presently filed appropriate rate schedule.

(B) Respondent shall report to the Commission in writing the date of commencement of service to Applicant within 10 days thereof.

(C) Applicant shall be prepared to receive service as directed herein within one year from the date of issuance of this order.

Before Commissioners: L. J. O'Connor, Jr., Acting Chairman; Charles R. Ross and David S. Black.

TENNESSEE GAS PIPELINE COMPANY, A DIVISION OF TENNECO INC., DOCKET NO. CP66-353

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued July 8, 1966)

On May 5, 1966, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant) filed in Docket No. CP66-353 an application pursuant to Section 7(c) of the Natural Gas Act, as implemented by Section 157.7(b) of the Regulations under the Act, for a certificate of public convenience and necessity authorizing the construction during the calendar year 1966 and the operation of certain natural gas facilities necessary to take into its certificated main pipeline system natural gas which will be purchased from producers thereof in the general area of Applicant's existing transmission system, all as more fully set forth in the application in this proceeding.

The purpose of this "budget-type" application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system new supplies of natural gas in various producing areas generally coextensive with said system.

The total cost of such facilities is not to exceed a maximum of $2,500,000, with no single project to exceed a cost of $500,000, which cost Applicant proposes to finance from general funds or from revolving credit.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on July 6, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., a Delaware corporation having its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order issued July 15, 1947, in Docket No. G-910 (6 FPC 777).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Applicant should submit within 60 days after the expiration of the authorization granted hereinafter, a statement in compliance with

Subparagraph (3) of Section 157.7(b) of the Commission's Regulations under the Natural Gas Act.

(6) Public convenience and necessity require that the certificate hereinafter issued and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e) and (f) of Section 157.20 of said Regulations.

(7) The authorization hereinafter granted should be limited to construction during the calendar year 1966 and the total expenditures for facilities to be constructed thereunder should be limited to a maximum of $2,500,000, with no single project to exceed a cost of $500,000.

The Commission orders:

(A) Upon the terms and conditions of this order, a certificate of public convenience and necessity is issued authorizing Applicant, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., to construct during the calendar year 1966, the proposed facilities hereinbefore described, as more fully described in the application in this proceeding, and to operate such facilities only to take natural gas supplies from producers who have received authorization from the Commission to sell natural gas to said Applicant.

(B) Applicant shall submit within 60 days after the expiration of the authorization granted by paragraph (A) above a statement in compliance with Subparagraph (3) of Section 157.7(b) of the Commission's Regulations under the Natural Gas Act.

(C) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e) and (f) of Section 157.20 of said Regulations.

(D) The authorization granted in paragraph (A) above is limited to construction during the calendar year 1966, and the total expenditures for facilities to be constructed thereunder are limited to a maximum of $2,500,000, with no single project to exceed a cost of $500,000.

Before Commissioners: L. J. O'Connor, Jr., Acting Chairman; Charles R. Ross and David S. Black.

CHUGACH ELECTRIC ASSOCIATION, INC., PROJECT NO. 2170

ORDER FURTHER AMENDING LICENSE (MAJOR) AND APPROVING PROJECT EXHIBITS

(Issued July 11, 1966)

Chugach Electric Association, Inc., licensee for Project No. 2170, known as Cooper Lake Project, situated on Cooper Lake, Cooper Creek and Kenai Lake, Alaska, filed: on June 18, 1962 revised tracings designated as Exhibit L (FPC Nos. 2170–19 through –23) showing certain project works as constructed; on August 10, 1962 an application for amendment of license to reflect such changes in the license; on January 24, 1963 and April 24, 1963 revised Exhibits M showing the effects of such changes on the capacity of the project; on January 24, 1963 a supplement to Exhibit K entitled "Production Plant Lease Areas"; on August 9, 1963 Exhibit K map, drawing 240Y–1 (FPC No. 2170–24); and on

July 29, 1965 revised Exhibit K (FPC No. 2170–24) entitled "General Plan Production Plant", which was subsequently revised by our staff pursuant to the licensee's authorization by letter dated January 4, 1966.

The revised exhibits and application for amendment reflect such "as constructed" changes as: the addition of 10 feet to the height of Cooper Lake dam and to the elevation of the spillway crest with resultant increase in the normal elevation of the reservoir from elevation 1,200 to 1,210 feet; change in the nameplate rating of the two generators from 9,375 kva at 0.8 power factor to 8,333 kva at 0.9 power factor, the kilowatt rating of 7,500 for each generator remaining the same; and other changes of a minor nature resulting from detailed design and construction methods, such as an increase in the diameter of the tunnel from 7 to 11 feet.

The cost of constructing the dam 10 feet higher, as reported by licensee, was $187,000. The raising of the normal pool elevation by 10 feet added 30,000 acre-feet to the usable storage (from 82,000 acre-feet 33 feet of drawdown to 112,000 acre-feet for 44 feet of drawdown) and the licensee advises that this additional head and storage increases the annual power output by 600,000 kwh. The licensee's economic feasibility study showed that the value of power at the plant was about 10.5 mills per kilowatt-hour. Based upon this value, the increase in the annual value of the power output is about $6,300. Amortizing $187,000 at 2 percent cost of money over 50 years, through REA financing, results in an annual cost of approximately $6,000. Thus, the estimated annual value exceeds annual costs by $300.

Commission approval of the aforementioned application for amendment and the filings of August 10 and June 18, 1962, and April 24, 1963 will necessitate redescribing in the license the project structures as constructed. Commission approval of the above-mentioned "Supplement to Exhibit K" filed January 24, 1963, and revised Exhibit K filed July 29, 1965 will, among other things, establish the location, boundaries and areas of the project for the first time and permit the fixing of annual charges for the occupancy of such project works on the lands of the United States involved within the Chugach National Forest (1012.9 acres), with the exception of the lands occupied by the Stetson Creek Diversion and the project transmission lines which have not as yet been determined.

The Commission finds:

(1) Project No. 2170 affects lands of the United States.

(2) The following described revised exhibits conform to the Commission's rules and regulations and should be approved as part of the license for the project, and license Exhibit L (FPC No. 2170–9, –10, –11, –12, and –16) which has been superseded, should be eliminated from the license:

Exhibit L, (FPC No. 2170–19) entitled "Cooper Lake Dam," superseding (FPC No. 2170–9);

(FPC No. 2170–20) entitled "Intake, Tunnel & Penstock" superseding (FPC No. 2170–10);

(FPC No. 2170–21) entitled "Surge Tank & Penstock Valve House" superseding (FPC No. 2170–11);

(FPC No. 2170–22) entitled "Powerhouse Design Layout", superseding (FPC No. 2170–12);

(FPC No. 2170–23) entitled "Electrical One Line Diagram" superseding (FPC No. 2170–16); and

Exhibit M, comprising 5 typewritten sheets filed April 24, 1963; and

Exhibit K (FPC No. 2170–24) entitled, "General Plan-Production Plant," with supplement to Exhibit K, entitled "Production Plant Lease Areas" in seven typed sheets.

(3) The amount of annual charges to be paid under the license for recompensing the United States for the use, occupancy, and enjoyment of its lands, exclusive of those used by the Stetson Creek Diversion and by the transmission lines, is reasonable as hereinafter fixed and specified.

The Commission orders:

(A) The license for Project No. 2170 is hereby further amended in the following respects:

PARAGRAPH I. Finding (1) of the license is deleted therefrom.

PARAGRAPH II. Finding (2) of the license is deleted therefrom.

PARAGRAPH III. Article 29 of the license is modified to read as follows:

Article 29. The Licensee shall pay to the United States the following annual charges:

(i) For the purpose of reimbursing the United States for the cost of administration of Part I of the Act, a reasonable annual charge as determined by the Commission in accordance with the provisions of its regulations, in effect from time to time. The authorized installed capacity for such purpose is 20,000 horsepower.

(ii) For purpose of recompensing the United States for the use, occupancy and enjoyment of its lands exclusive of those used for transmission line purposes, $2430.96; effective as of May 1, 1957, the effective date of the license; and

(iii) For the purpose of recompensing the United States for the use, occupancy and enjoyment of its lands for transmission line right-of-way purposes only, an amount to be hereafter determined.

(B) Project No. 2170 consists of:

(i) all lands constituting the project area and inclosed by the project boundary or the limits of which are otherwise defined, and/or interest in such lands necessary or appropriate for the purposes of the project, whether such lands or interest therein are owned or held by the Licensee or by the United States; such project area and project boundary being more specifically shown and described by a certain exhibit which formed part of the application for license or amendment thereof, and which is designated and described as follows:

Exhibit K: (FPC No. 2170–24 revised July 29, 1965) together with "Supplement to Exhibit K," filed January 24, 1963, entitled "Production Plant Lease Areas".

(ii) principal structures comprising: an earth and rock-fill dam 70 feet high across Cooper Creek at the outlet of Cooper Lake; an uncontrolled spillway channel excavated in the left abutment at the dam site; a reservoir with normal pool at elevation 1210 feet having an area of 3100 acres and a usable storage of 112,000 acre-feet; an intake structure 4 miles up the lake; a tunnel and penstock aggregating 10,042 feet extending from Cooper Lake to a powerhouse on Kenai Lake; a differential-type surge tank; powerhouse containing two turbines each rated at 10,500 horsepower and connected to two generators of 7500 kw capacity for a total installed capacity of 15,000 kilowatts; transformers; switchyard; access roads (from the Forest Service Snug Harbor-Cooper Lake Road) to powerplant area, surge tank and the lower portal of access tunnel; a 115 kv transmission line to Anchorage and a 69 kv line to the Homer substation and other appurtenant facilities, including the future diversion works for diversion of Stetson Creek into Cooper Lake, the location, nature and character of which are more specifically shown and described by a certain exhibit hereinbefore cited and by certain other exhibits which also formed part of the application for license or amendment thereof and which are designated and described as follows:

Exhibit L: (FPC No. 2170–19) Cooper Lake Dam:
(FPC No. 2170–20) Intake, Tunnel & Penstocks;
(FPC No. 2170–21) Surge Tank & Penstock Valve House;
(FPC No. 2170–22) Powerhouse Design Layout;
(FPC No. 2170–15) Stetson Creek Dam and Canal;
(FPC No. 2170–23) Electrical One Line Diagram;
Exhibit M, comprising 5 typewritten sheets filed April 24, 1963.

(iii) all other structures, fixtures, equipment or facilities used or useful in the maintenance and operation of the project and located on the project area, including such portable property as may be used or useful in connection with the project or any part thereof, whether located on or off the project area, if and to the extent that the inclusion of such property as part of the project is approved or acquiesced in by the Commission; also, all riparian or other rights, the use or possession of which is necessary or appropriate in the maintenance or operation of the project.

(C) The exhibits described in finding (2) above as conforming to the Commission's Rules and Regulations are hereby approved as part of the license for the project, and the exhibit described in the same finding as being superseded is hereby eliminated from the license for the project.

(D) This amendment in the manner set out above shall not operate to alter or amend the license in any other respect, and shall not in any way constitute a waiver of any other part, provision or condition of the license.

(E) This order shall become final 30 days from the date of its issuance unless application for rehearing shall be filed as provided in Section 313(a) of the Act, and failure to file such an application shall constitute acceptance of this license amendment. In acknowledgment of the acceptance of this license amendment, it shall be signed for the licensee and returned to the Commission within 60 days from the date of issuance of this order.

Before Commissioners: L. J. O'Connor, Jr., Acting Chairman; Charles R. Ross and David S. Black.

GRAND VALLEY TRANSMISSION COMPANY, DOCKET NO. CP66–319

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued July 11, 1966)

On April 6, 1966, Grand Valley Transmission Company (Applicant) filed in Docket No. CP66–319 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of approximately 30.3 miles of 3½-inch and 2⅞-inch gathering pipelines and a 100 horsepower compressor unit and the sale of increased volumes of natural gas to El Paso Natural Gas Company (El Paso), all as more fully set forth in the application.

Applicant proposes to extend both branches of its existing Y-shaped pipeline system, which is located in eastern Utah, to connect additional production in Grant and Uintah Counties, Utah with its system. The westerly branch will be extended 10.65 miles with 3½-inch pipeline, where it will branch again with approximately 5.1 miles of 2⅞-inch pipeline, connecting to wells in the Moonridge and Segundo Canyon Units operated by Pacific Natural Gas Exploration Co. The proposed 100 horsepower compressor station will be installed to boost the pressure of the production from the Segundo Canyon wells.

The other main branch of the existing system will be extended from a point downstream from Applicant's existing Robidoux Compressor Station for approximately 14.55 miles north-northwest with 3½-inch and 2⅞-inch pipeline to connect the well operated by Tidewater Oil Company in the Horse Point Unit and the three wells operated by Texaco Inc., in the Fence Canyon Unit.

The facilities will be utilized by Applicant to increase its average daily deliveries to El Paso to approximately 12,000 Mcf pursuant to an amended gas purchase agreement. Applicant states that the extensions to its system will enable it to connect seven additional wells on acreage dedicated to it in contracts with the above-named producers.

El Paso is Applicant's sole customer. The amendments to the existing gas purchase agreement with El Paso consist primarily of an increase in average daily deliveries from 9,000 Mcf to approximately 12,000 Mcf, higher Btu guarantees, and extension of the make-up period for prepaid gas.

The estimated cost of the facilities to be constructed by Applicant is $254,789, which will be financed by bank loans.

Applicant and El Paso have agreed to certain minor modifications in their existing filed rate schedules. It is proposed to change the minimum Btu value per cubic foot from 985 to 1000, retaining the same provisions for downward adjustment of price for gas of lesser Btu content. El Paso now agrees to a 85% minimum take, on an annual basis, as compared with the present 75% provision. The contract "make-up" period for gas not taken, is extended from the present 5 years to the life of the contract.

After due notice no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on July 6, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorizations sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, Grand Valley Transmission Company, a Nevada corporation, having its principal place of business in Salt Lake City, Utah, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of June 20, 1961, in Docket No. CI60-171 (25 FPC 1178).

(2) The proposed construction and operation of facilities and sale and delivery of natural gas as hereinbefore described and as more fully described in the application and exhibits filed in this proceeding are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed construction and operation of facilities and sale and delivery of natural gas are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant in this proceeding authorizing the construction and operation of facilities and sale and delivery of natural gas as hereinbefore described, all as more fully described in the application and exhibits filed in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The facilities authorized to be constructed and operated by Applicant shall be completed and placed in actual operation, as provided by paragraph (b) of Section 157.20 of the aforesaid Regulations within 12 months of the date on which this order issues.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, David S. Black and Carl E. Bagge.

CONSUMERS POWER COMPANY, DOCKET NO. E-7289

SUPPLEMENTAL ORDER AUTHORIZING ISSUANCE OF FIRST MORTGAGE BONDS

(Issued July 12, 1966)

By order issued June 24, 1966, 35 FPC 1071, in the above-entitled matter, the Commission authorized Consumers Power Company (Applicant) to issue and sell at competitive bidding $65,000,000, principal amount of First Mortgage Bonds, due 1996, subject among others, to the provisions set forth in paragraph (B) of that order as follows:

(i) Applicant shall have amended its application pursuant to the requirements of Section 34.2(g) of the Commission's Regulations under the Federal Power Act relating to compliance with competitive bidding requirements, and Section 34.2(h)(1) of those Regulations relating to affiliation, and shall have either filed such amendments or shall have mailed them and advised the Commission by telephone and telegraph, as contemplated in Section 34.9 of the Regulations.

(ii) The Commission, by further order, shall have approved the price to be received by Applicant for the proposed issuance of Bonds and the interest rate thereof.

Applicant, on July 12, 1966, filed an amendment, pursuant to the requirements of the aforementioned Commission order, setting forth, among other things, that it proposes to accept as providing the lowest annual cost of money to it, the bid of Merrill Lynch, Pierce, Fenner & Smith Incorporated, White, Weld & Co., Lehman Brothers, Salomon Brothers & Hutzler, Shields & Company, to purchase the proposed issuance of $65,000,000, principal amount of Bonds, for the price of 100.32% of principal amount, with an interest rate of 5⅞%.

The Commission finds:

(1) Applicant has satisfactorily complied with the requirements of paragraph (B) of the Commission's order issued June 24, 1966, in the above docket, and

under the bid it proposes to accept for the Bonds, the price to be received by Applicant therefor and the interest rate thereof are reasonable.

(2) The proposed issuance and sale of Bonds, as hereinafter authorized, will be for a lawful object, within the corporate purposes of the Applicant and compatible with the public interest, which is appropriate for and consistent with the proper performance by the Applicant of service as a public utility and which will not impair its ability to perform that service, and is reasonably appropriate for such purposes.

The Commission orders:

(A) The price to be received by Applicant for the proposed Bonds and the interest rate thereof under the bid referred to above, are approved as reasonable.

(B) The proposed issuance and sale of Bonds referred to above upon the terms and conditions and for the purposes specified in the application, as supplemented by the amendment referred to above, are authorized, subject only to the provisions of paragraphs (A), (C), (D) and (E) of the Commission's order issued June 24, 1966, in the above docket.

Before Commissioners: L. J. O'Connor, Jr., Acting Chairman; Charles R. Ross and David S. Black.

NORTHERN NATURAL GAS COMPANY, DOCKET NO. CP66–320

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued July 12, 1966)

On April 6, 1966, Northern Natural Gas Company (Applicant) filed in Docket No. CP66–320 an application and a supplement thereto on May 26, 1966, pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and the transportation of natural gas in interstate commerce from a gas supply area in northwest Oklahoma, all as more fully set forth in the application.

Applicant proposes to extend its existing pipeline system in a southeasterly direction from its present terminus in Ellis County, to a point in Woodward County, Oklahoma with several branches from such extension. The length and diameter of the various pipelines proposed to be constructed and operated are described as follows: 36.32 miles of 4½-inch, 54.65 miles of 6⅝-inch, 21.0 miles of 8⅝-inch, 10.2 miles of 10¾-inch, 19.34 miles of 12¾-inch, 16.2 miles of 16-inch and 17 miles of 24-inch. Applicant proposes to construct three skid mounted measuring stations together with certain dehydration facilities.

Applicant has entered into a gas purchase contract with Pan American Petroleum Corporation (Pan Am) for the purchase of gas from a 42 Township area located in Ellis, Woodward and Dewey Counties, Oklahoma, and proposes to extend its present gas supply system in this area, as set forth above, in order to attach the reserves under contract and additional reserves assigned for the future.

The source of the gas supply sought herein is approximately 150,000 acres in Ellis, Dewey and Woodward Counties, Oklahoma. Applicant by its contract with Pan American Petroleum Corporation has obtained an estimated 337,933 MMcf of proved reserves at 14.65 psia. An additional 500,000 MMcf of reserves are claimed to be available for future contract to Applicant.

Applicant states that 115 wells have been completed in the acreage contracted to it and 94 of these wells with an estimated first year peak day capacity of 100,000 Mcf are to be connected pursuant to this application. Applicant plans to have these reserves attached to its system by the 1966–67 heating season.

The total estimated cost of the proposed facilities is $5,021,500, which cost will be financed from cash on hand.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on July 6, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibit, as supplemented, submitted in support of the authorizations sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, Northern Natural Gas Company, a Delaware corporation having its principal place of business in Omaha, Nebraska, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of April 6, 1943, in Docket No. G–280 (3 FPC 967).

(2) The proposed construction and operation of facilities, and the transportation of natural gas in interstate commerce, as hereinbefore described and as more fully described in the application, and exhibits, as supplemented, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed construction and operation of facilities and transportation of natural gas are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant authorizing the construction and operation of facilities, and the transportation of natural gas in interstate commerce, as herein before described and as more fully described in the application, as supplemented, and exhibits filed in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The facilities authorized by paragraph (A) above shall be constructed and placed in actual operation as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within 12 months from the date on which this order issues.

Before Commissioners: L. J. O'Connor, Jr., Acting Chairman; Charles R. Ross and David S. Black.

TEXAS GAS TRANSMISSION CORPORATION, DOCKET NO. CP66-149 (PHASE I)

ORDER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued July 12, 1966)

On April 13, 1966, Texas Gas Transmission Corporation (Petitioner), filed in Docket No. CP66-149 a petition to amend the certificate of public convenience and necessity issued in said docket on April 12, 1966, 35 FPC 493 requesting authorization to increase the contract demands of thirteen of its existing customers to be effective November 1, 1966, and to construct and operate the additional facilities required to provide the capacity to serve such increased requirements, all as more fully set forth in the petition to amend.

Petitioner seeks authorization to construct and operate the following facilities:

(1) approximately 43.87 miles of 36-inch loop pipeline in Louisiana, Mississippi, and Kentucky.

(2) approximately 0.66 mile of 30-inch loop pipeline in Kentucky, and

(3) approximately 7.14 miles of 8-inch loop pipeline in Indiana and Illinois.

The petition states that thirteen of Petitioner's existing customers have requested that their contract demands for the 1966-67 winter heating season be increased effective November 1, 1966. Accordingly, by the instant filing Petitioner seeks authorization to provide additional natural gas service to the following customers in the amounts set forth below:

Customer	Authorized in Order Dated April 12, 1966, Docket No. CP66-149	Previously Authorized By Orders Other than CP66-149 Order	Requested Increase	Total Requested For 1966-67 Heating Season
Jackson Utility Division, City of Jackson, Tennessee	23,262		150	23,412
City of Dyersburg, Tennessee	9,200		800	10,000
Indiana Gas & Water Company, Inc		80,000	2,036	82,036
Southern Indiana Gas and Electric Co	72,000		15,000	87,000
Western Kentucky Gas Co. (Zone 3)		59,215	5,785	65,000
Hoosier Gas Corporation		23,300	1,700	25,000
Gas Utilities Company		12,000	1,333	13,333
Eastern Illinois Gas & Securities Co	6,500		400	6,900
Illinois Gas Company	6,350		400	6,750
Midwest Natural Gas Corporation	2,758		908	3,666
City of Morganfield, Kentucky	2,600		925	3,525
Lawrenceburg Gas Transmission Corporation		11,000	500	11,500
Western Kentucky Gas Company (Zone 4)		7,890	522	8,412
Total Increase			30,459	

Petitioner's customers seeking these increases in their respective contract demands cite as the basis thereof the addition of communities, unexpected residential growth, postponing of the installation of peak-shaving equipment, using a decreased design temperature in determining their estimated gas requirements, unanticipated industrial expansions, and additional firm industrial sales.

The total estimated cost of the facilities proposed by the instant filing is $8,207,000, which will be financed through the issuance of long-term debt securities.

Due notice of the filing of the petition to amend and opportunity for hearing thereon has been given by publication in the Federal Register on April 30, 1966 (31 F.R. 6554). No protest, petition to intervene or notice of intervention has been filed herein.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's order issued April 12, 1966, in Docket No. CP66–149 (Phase I) be amended as hereinafter ordered.

The Commission orders:

(A) The Commission's order issued April 12, 1966, in Docket No. CP66–149 (Phase I) is amended so as to (1) include authorization for the additional construction and operation of approximately 43.87 miles of 36-inch loop in Louisiana, Mississippi, and Kentucky; 0.66 mile of 30-inch loop in Kentucky, and 7.14 miles of 8-inch loop in Indiana and Illinois, and (2) increase the contract demands of 13 existing customers by an additional 30,459 Mcf/d.

(B) In all other respects said order shall remain in full force and effect.

(C) The amendment authorized by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with applicable Commission Regulations under the Natural Gas Act and particularly the conditions set forth in paragraph (b) of Section 157.20 of such Regulations.

Before Commissioners: L. J. O'Connor, Jr., Acting Chairman; Charles R. Ross and David S. Black.

TEXAS GAS TRANSMISSION CORPORATION, DOCKET NO. CP66–364

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND ACCEPTING RATE SCHEDULE FOR FILING

(Issued July 12, 1966)

On May 13, 1966, Texas Gas Transmission Corporation (Applicant), filed in Docket No. CP66–364 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing it to render a transportation service for Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), for a term commencing with authorization therefor and ending September 1, 1967, all as more fully set forth in the application.

Applicant proposes to render a limited term transportation service (for one year) for Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee). Applicant proposes to receive up to 26,000 Mcf/d (Volumes at 15.025 psia) on a firm basis from Tennessee at Mitchellville, Tennessee, and deliver equivalent volumes to Louisville Gas and Electric Company (Louisville) near Louisville, Kentucky, for the account of Tennessee. The further purpose of the proposal is to free at least 25,000 Mcf/d of pipeline capacity on Tennessee's system north of its Compressor Station No. 87, in order to meet the increased contract demand requirement of United Fuel Gas Company, an existing Tennessee customer.

No new facilities for the proposed project are required since the proposed transportation service will be rendered through a portion of Applicant's existing pipeline system and existing interconnections and delivery points.

On May 17, 1966, Applicant filed Rate Schedule X–34,[1] comprising Applicant's initial transportation agreement which provides for the service proposed herein. Applicant requests waiver of the notice requirements and an effective date concurrent with the date of certificate authorization. Waiver is deemed appropriate with an effective date being the date of issuance of this order.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application, has been filed.

At a hearing held on July 6, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorizations sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, Texas Gas Transmission Corporation, a Delaware corporation having its principal place of business in Owensboro, Kentucky, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of March 30, 1948, in Docket No. G–855 (7 FPC 213).

(2) The proposed operation of facilities, and the transportation of natural gas in interstate commerce, as hereinbefore described and as more fully described in the application, filed in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed operation of facilities, and the transportation of natural gas in interstate commerce are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (e) and (f) of Section 157.20 of such Regulations.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act, and the public convenience and necessity require that Applicant's proposed Rate Schedule X–34 filed on May 17, 1966, be accepted for filing, effective on the date of the issuance of this order, and that with respect thereto the notice requirements of Section 154.22 of the Commission's Regulations be waived.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, Texas Gas Transmission Corporation, authorizing the operation of facilities and the transportation of natural gas as hereinbefore described, all as more fully described in the application, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (e) and (f) of Section 157.20 of such Regulations.

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[1] Constituting Original Sheet Nos. 408 through 414 of Texas Gas FPC Tariff, Original Volume No. 2.

(C) The transportation of gas authorized in paragraph (A) above shall commence as provided in paragraph (b) of Section 157.20 of the aforesaid Regulations within 3 months of the date on which this order issues.

(D) Applicant's proposed Rate Schedule X–34 (Original Sheet Nos. 408–414 FPC Gas Tariff, Original Volume No. 2), filed May 17, 1966, is accepted for filing effective on the date of issuance of this order.

(E) The notice requirements of Section 154.22 of the Commission's Regulations with respect to the rate filing of Applicant is waived.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

NORTHWESTERN PUBLIC SERVICE COMPANY, DOCKET NO. E–7293

SUPPLEMENTAL ORDER AUTHORIZING ISSUANCE OF FIRST MORTGAGE BONDS

(Issued July 13, 1966)

By order issued June 24, 1966, 35 FPC 1079, in the above-entitled matter, the Commission authorized Northwestern Public Service Company (Applicant), to issue and sell at competitive bidding $3,500,000 principal amount of First Mortgage Bonds, due 1966, subject among others, to the provisions set forth in paragraph (B) of that order as follows:

(i) Applicant shall have amended its application pursuant to the requirements of Section 34.2(g) of the Commission's Regulations under the Federal Power Act relating to compliance with competitive bidding requirements, and Section 34.2 (h)(1) of those Regulations relating to affiliation, and shall have either filed such amendments or shall have mailed them and advised the Commission by telephone and telegraph, as contemplated in Section 34.9 of the Regulations.

(ii) The Commission, by further order, shall have approved the price to be received by Applicant for the proposed issuance of Bonds and the interest rate thereof.

Applicant, on July 13, 1966, filed an amendment, pursuant to the requirements of the aforementioned Commission order, setting forth, among other things, that it proposes to accept as providing the lowest annual cost of money to it, the bid of Halsey, Stuart & Co., Inc., to purchase the proposed issuance of $3,500,000, principal amount of Bonds, for the price of 99.127% of principal amount, with an interest rate of 6¼%.

The Commission finds:

(1) Applicant has satisfactorily complied with the requirements of paragraph (B) of the Commission's order issued June 24, 1966, in the above docket, and under the bid it proposes to accept for the Bonds, the price to be received by Applicant therefor and the interest rate thereof are reasonable.

(2) The proposed issuance and sale of Bonds, as hereinafter authorized, will be for a lawful object, within the corporate purposes of the Applicant and compatible with the public interest, which is appropriate for and consistent with the proper performance by the Applicant of service as a public utility and which will not impair its ability to perform that service, and is reasonably appropriate for such purposes.

The Commission orders:

(A) The price to be received by Applicant for the proposed Bonds and the interest rate thereof under the bid referred to above, are approved as reasonable.

(B) The proposed issuance and sale of Bonds referred to above upon the terms and conditions and for the purposes specified in the application, as supplemented by the amendment referred to above, are authorized, subject only to the provisions of paragraphs (A), (C), (D) and (E) of the Commission's order issued June 24, 1966, in the above docket.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

ILLINOIS POWER COMPANY, DOCKET NO. E-7282

ORDER AUTHORIZING ACQUISITION OF FACILITIES

(Issued July 15, 1966)

Illinois Power Company (Applicant) filed an application with the Federal Power Commission on April 4, 1966 seeking an order pursuant to Section 203 of the Federal Power Act authorizing it to purchase all of the electric distribution and street lighting facilities of the Village of Sawerville, Illinois (Sawyerville).

Applicant is incorporated under the laws of the State of Illinois with its principal place of business at Decatur, Illinois and is engaged primarily in the generation, purchase and sale at wholesale, transmission and distribution of electric energy in Illinois. It provides electric service in 49 counties in the State.

Sawyerville is a municipal corporation under the laws of Illinois and is engaged in the distribution of electric energy to approximately 138 customers within its corporate limits in Macoupin County. It has no generating capacity and purchases energy to meet its requirements from the Applicant. Sawyerville is surrounded by the service area of the Applicant.

According to the application, Applicant will acquire Sawyerville's facilities for $53,500 of which $3,500 is to be paid at closing and the balance of $50,000 to be paid 25 years from such date, to the extent not previously prepaid upon demand of Sawyerville. The balance of the purchase price from time to time unpaid will bear interest payable monthly in advance at the rate of 6 percent per annum. The facilities proposed to be purchased consist of poles, cross-arms, insulators, conductors, recorders, transformers, and street lighting fixtures with related equipment, in place, constituting the entire system for the distribution of electric energy and street lighting within Sawyerville. Sawyerville has not maintained original cost records but Applicant estimates the original cost of Sawyerville's properties at $19,858 and the value of materials and supplies to be $1,104. After the transaction the Applicant proposes to put into effect in Sawyerville its standard rates in effect in nearby communities. Fifty-two of 132 residential customers will receive decreases in annual bills of $0.06 to $4.92; the other 80 residential customers will receive increases ranging from $0.04 to $32.00 per year. The six commercial customers will receive increases from $2.38 to $126.88 per year.

An ordinance authorizing the sale of the facilities was adopted by the Village Board of Trustees on February 25, 1966. On May 25, 1966, the Illinois Commerce Commission approved the proposed transaction, issued a Certificate of Public Convenience and Necessity to the Applicant and ordered it to make effective in and about Sawyerville the standard rates presently in effect in other communities in the same area. The appropriate retail rate structure of a public utility is not a matter subject to this Commission's jurisdiction.

Applicant represents that its service could be of benefit to Sawyerville's customers whose average annual consumption was 3,000 kwh in 1965, whereas Applicant's residential customers annual consumption was 4,260 kwh in the same year. Applicant proposes additional improvements to the distribution system in Sawyerville which it believes promise appreciable benefits to the community. Applicant proposes to correct the voltage condition in Sawyerville and to renovate the present street lighting system. The cost of correcting the low voltage conditions in Sawyerville which are below the standards set by the state Commission might result in increases in charges should Sawyerville retain its electric facilities. Applicant states that its larger skilled manpower forces will be available to service the electric distribution and street lighting systems thereby making more reliable the electric service to the customers in Sawyerville. Applicant also indicates that the property purchased will be placed upon the tax rolls and produce tax revenue.

Written notice of the application has been given to the Illinois Commerce Commission and to the Governor of that State. Notice was also published in the Federal Register on April 30, 1966, stating that any person desiring to be heard or to make any protest with reference to the application, should on or before April 27, 1966 file petitions or protests with the Federal Power Commission, Washington, D.C. 20426. No petitions to intervene or formal protest have been filed in this matter. By letter to the Commission dated April 15, 1966 a resident of Sawyerville expressed objection to the manner in which the Board of Trustees and the Applicant agreed to the transaction. By letter dated April 28, 1966 the Secretary of the Commission advised this individual that the validity of the agreement between the Village Board of Trustees and the Applicant is a matter governed by the laws of the State of Illinois and is not a question for the Commission's final determination.

The Commission finds:

(1) Applicant, a corporation, owns and operates facilities for the transmission and sale at wholesale of electric energy which is generated in the States of Indiana, Iowa and Missouri and consumed in the State of Illinois, all of which facilities are in addition to and do not include facilities used for the generation of electric energy, facilities used in local distribution, or only for the transmission of electric energy in intrastate commerce, or facilities for the transmission of electric energy consumed wholly by the transmitter. Applicant is, therefore, a public utility within the meaning of that term as used in Section 203 of the Act.

(2) By the proposed transaction, Applicant will merge or consolidate its facilities subject to the jurisdiction of the Commission with those of Sawyerville, another person, within the meaning and subject to the requirements of Section 203 of the Federal Power Act.

(3) The proposed acquisition of facilities by Applicant, as described above, upon the terms and conditions set forth in the application, and subject to the provisions of this order will be consistent with the public interest as expressed in Section 203 of the Federal Power Act.

The Commission orders:

(A) The proposed acquisition by Applicant of the aforementioned electric facilities, all as described above, is authorized and approved upon the terms and conditions and for the purposes set forth in the application subject to the provisions of this order.

(B) Applicant shall record the proposed transaction herein authorized and the facilities and properties referred to above as provided in the Commission's Uniform System of Accounts Prescribed for Public Utilities and Licensees.

(C) This authorization shall expire unless the transaction herein authorized and approved is consummated within 90 days from the date of issuance of this order.

(D) The foregoing authorization is without prejudice to the authority of this Commission or any other regulatory body with respect to rates, service, accounts, valuations, estimates or determinations of cost, or any matter whatsoever now pending or which may come before this Commission or any other regulatory body and nothing herein shall be construed as an acquiescence by this Commission in any estimate or determination of cost or any valuation of property claimed or asserted.

OPINION NO. 497

MIDWESTERN GAS TRANSMISSION COMPANY, DOCKET NOS. RP61-19, RP62-7 (REOPENED); KNOXVILLE UTILITIES BOARD, ET AL. v. EAST TENNESSEE NATURAL GAS COMPANY, DOCKET NO. RP65-4

OPINION AND ORDER ON PROPER RATE TREATMENT OF AVAILABLE LIBERALIZED DEPRECIATION TAX DEDUCTIONS

(Issued July 15, 1966)*

Syllabus

1. Commission reviews holding in *Alabama-Tennessee* regarding use of liberalized depreciation in lieu of straight-line depreciation. P. 66.
2. Customers may not properly be required to bear increased tax payments resulting from managerial decisions to discontinue use of liberalized depreciation. P. 70.
3. Midwestern and Tennessee are not properly fulfilling their duties under the Natural Gas Act when they voluntarily discontinue use of liberalized depreciation. P. 70.
4. In the customers interest and their own, public utilities should be permitted to charge rates which are compensatory of full cost incurred by alert, efficient and responsible management; customers should not be required to pay more than this. P. 70.
5. Requirement to utilize all available cost savings opportunities is applicable to tax savings as well as general economies of management. P. 70.
6. Commission has no authority to conduct or supervise day-by-day operations involved in production and transportation of natural gas in interstate commerce; those functions are left to management for decision. P. 70.
7. Under the Gas Act, Commission function is to review company business judgments to assure they do not impair and are consistent with concomitant obligation of management to make needed gas supplies available at lowest reasonable rates consistent with public interest. P. 70.
8. Regulation must make sure that costs incurred in rendering service are necessary and prudent—extravagant and unnecessary costs cannot be imposed on ratepayers, no matter how convinced management may have been that costs were necessary in its own interest. PP. 70, 71.
9. Under Uniform System of Accounts, Commission has long exercised its responsibility to scrutinize recorded costs and disallow same where it bears no reasonable, functional relationship to provision of service. P. 71.

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*Initial decision appears on p. 97. Opinion No. 497-A and order issued September 9, 1966 denying rehearing, etc., 36 FPC 599. Order issued December 22, 1966 granting stay of Opinion Nos. 497 and 497-A. 36 FPC 1099. Affirmed, *Midwestern Gas Transmission Company, et al.* v. *F.P.C.*, 388 F. 2d 444 (CA7-1968), cert. denied, 392 U.S. 928 (1968).

10. Managerial services relating to implementation of Federal tax policies differ in nature from those pertinent to general pipeline policies. P. 71.
11. Federal tax policy encourages taxpayers to use all lawful means for reducing tax liability; absent a clear declaration to contrary, consumer is entitled to share in Federal tax benefits allowed public utilities. P. 71.
12. Under accepted regulatory practices, taxes, including income taxes, are treated as necessary operating costs to be recovered in rates charged users of public utility service. PP. 71, 72.
13. As recoverable costs, tax payments necessarily come under regulatory scrutiny, and where level thereof is affected by managerial action, such payments fall within ambit of regulatory authority. P. 72.
14. Court's decision in *Alabama-Tennessee* enforces conclusion that Federal tax determination here is a proper area for Commission review and removes any remaining doubt that Commission is in any way controlled in its ratemaking authority by fact of Federally created tax option. P. 74.
15. There is no remaining validity to contention that tax benefits allowed public utilities by Congress, absent a clear declaration to the contrary, are for the exclusive benefit of stockholders—Court decisions show that utilities are under a positive obligation to share with consumers savings resulting from exercise of tax options. P. 74.
16. Commission *rejects* argument that it is required, for regulatory purposes, to accept considered judgment of company's directors in area of Federal tax options. P. 74.
17. *Distinguishing United Gas* and *Wisconsin Michigan*, Commission is persuaded on present record that companies' initial decision to use liberalized depreciation was correct and continued use thereof will result in tax savings. P. 75.
18. Since evidence supports that Midwestern and Tennessee will experience growth, their use of liberalized depreciation will result in actual savings not merely a tax deferral. P. 75.
19. While it is possible that company taking liberalized depreciation will experience tax increase at some indefinite time, considering many factors involved, Commission is not persuaded by the argument absent a positive showing of a declining plant balance in particular case under consideration. P. 75.
20. Commission *rejects* concept that consumers are guarantors of a pipeline's future earnings. P. 76.
21. Rates prescribed here are required to cover all of pipelines' reasonable jurisdictional costs and provide a fair return through ensuing few years. P. 76.
22. Even if Midwestern's plant remains static, level of sales will not be affected thereby; evidence shows excess earnings associated with declining net rate base would be available to substantially offset loss of tax deductions attributable to liberalized depreciation without impairing allowed rate of return. P. 77.
23. Commission *rejects* argument that the required use of liberalized depreciation and flow-through of resulting benefits will require higher overall rate of return to attract necessary capital—there is nothing in present record to justify reopening that issue or to cause approval of a higher rate of return for Midwestern and East Tennessee. P. 77.
24. Commission *concludes* that in reverting to straight-line depreciation, Midwestern and East Tennessee exceeded the ambit of managerial discretion and accordingly appropriate rate reductions are required. P. 82.

25. A prospective approach to use of liberalized depreciation is proper in order to afford East Tennessee opportunity to conform or reconform its depreciation practices with rate treatment ordered here and to obtain necessary consent of Internal Revenue to effect reversion. PP. 82, 83.
26. It is more equitable that use of liberalized method in computation of East Tennessee's tax costs for ratemaking purposes be required as of January 1, 1967. P. 83.
27. Since Midwestern voluntarily established effective date for results of present proceeding in its settlement agreement, and in view of expressed terms thereof, Commission *concludes* that, absent a finding agreement is contrary to public interest and unjust and unreasonable under the Act, it has no discretion but to require recomputation of rates from October 13, 1964. PP. 83, 84.
28. In a proceeding on proper rate treatment of available liberalized depreciation tax deductions, Commission *orders* pipelines to base the Federal income tax allowance in their cost-of-service on the higher depreciation deductions and lower taxes available under liberalized depreciation tax option, irrespective of actual deductions taken in Federal income tax returns.

Commissioners O'Connor and Bagge *dissenting.*

Harry S. Littman, Dale Wright, Jack Werner and *B. J. Williamson* for Midwestern Gas Transmission Company.

Harold L. Talisman for East Tennessee Natural Gas Company.

Christopher T. Boland and *Harry L. Albrecht* for Independent Natural Gas Association of America.

Charles V. Shannon, Louis Flax and *Paul S. Davis* for Michigan Wisconsin Pipe Line Company.

A. R. Renquist for Northern States Power Company.

Mathias M. Mattern for City of Chicago, Illinois.

Charles C. McDugald, William W. Brackett and *Paul E. Goldstein* for Natural Gas Pipeline Company of America and The Peoples Gas Light and Coke Company.

Charles F. Wheatley, Jr., and *B. D. Perry* for American Public Gas Association.

James L. Bomar and *John C. Shafner* for Knoxville Utilities Board, *et al.*

Eugene W. Ward and *George Shuff* for Tennessee Public Service Commission.

Wilbur L. Hazelgrove for Roanoke Gas Company and Colonial Natural Gas Company.

W. D. Spears, Norman E. Hayes, Jr. and *J. David Mann, Jr.* for Chattanooga Gas Company.

Arnold D. Berkeley, Julius C. Meier and *Samuel B. Ross* for the Staff of the Federal Power Commission.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

BLACK, *Commissioner:*

Introduction

The issue in this proceeding is whether the Commission, in the exercise of its ratemaking authority, may base the Federal income tax allowance in a pipeline's cost-of-service on the higher depreciation deductions and lower taxes available under the liberalized depreciation tax option provided in Section 167 of the Internal Revenue Code irrespective of the actual deductions taken by the company in its Federal income tax returns. Stated otherwise, and relating the issue to the facts in the cases now before us, the question presented is: Where a pipeline, having once decided to receive the benefits of liberalized tax depreciation, thereafter elects to revert to straight-line depreciation and pays Federal income taxes based thereon, such amount being in excess of the tax payment which would otherwise have been incurred under liberalized depreciation, is the Commission bound to accept the depreciation method so selected or may it in appropriate circumstances compute a tax depreciation allowance based on a method resulting in a lesser cost-of-service and lower rates to the pipeline's customers?

The issue above stated has not previously been ruled upon by the Commission. The present proceeding was initiated by an order issued April 21, 1965, 33 FPC 835, for further hearing on this question as remanded in Opinion No. 444,[1] for the purpose of affording Midwestern Gas Transmission Company (Midwestern) an opportunity to justify its action in 1964 in dropping liberalized depreciation and switching to the use of straight-line depreciation for its Federal income tax returns. An identical issue involving East Tennessee Natural Gas Company (East Tennessee) subsequently was severed from the rate proceedings otherwise determined in Opinion No. 488,[2] and was consolidated with the deferred issue in the *Midwestern* case. Both Midwestern and East Tennessee are now operating under rates which reflect the higher taxes payable under the straight-line method of depreciation, subject to reduction in the event that we determine that the rates should reflect the use of liberalized depreciation even though the companies use straight-line depreciation for tax purposes.[3] The issue is presented to us for decision on exceptions to (1) Examiner William C. Levy's decision of January 11, 1966, which would require Midwestern to compute its tax allowance on the basis of liberalized depreciation beginning in 1966, and (2) Examiner Seymour Wenner's decision of August 23, 1965, *supra*, at p. 546, wherein he computed the test period cost-of-service of East Tennessee as though it were continuing to take liberalized depreciation.

Midwestern and East Tennessee filed exceptions to the Examiners' recommended determinations. In the *Midwestern* case, staff, the City of Chicago and the American Public Gas Association support the required use of liberalized depreciation, disagreeing with the Examiner only as to the method to be applied in determining the amount of the reduction. The Independent Natural Gas Association of America (INGAA), an intervener, upholds the position of Midwestern and, indirectly, East Tennessee. In the *East Tennessee* case, the initial decision is supported by a number of distributor customers—Knoxville, *et al.*, Chattanooga, Roanoke and Colonial—and the staff. Pursuant to requests of the parties, oral argument was held before the full Commission on April 5, 1966.

The additional revenues required by Midwestern and East Tennessee as a result of their elections to drop liberalized depreciation in favor of straight-line depreciation have been computed in the appendices to this Opinion. As therein determined, Midwestern's decision has served to add $546,960 annually to its cost-of-service to be recovered in the rates charged its customers, while East Tennessee's cost-of-service has been increased by an average of $374,312.[4]

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[1] *Midwestern Gas Transmission Co.*, issued October 13, 1964, 32 FPC 993.

[2] *Knoxville Utilities Board, et al. v. East Tennessee Natural Gas Co.*, issued April 19, 1966, 35 FPC 534.

[3] Opinion No. 444, Ordering Paragraph (D), 32 FPC at p. 1005, and Order Approving Proposed Settlement, issued December 30, 1964, 32 FPC 1548; Opinion No. 488, 35 FPC 534 at 539.

[4] These amounts are based on the averaging technique set out herein. All other elements of Midwestern's cost-of-service remain as previously determined in Opinion No. 444 and the December 1964 settlement based on a test year ending June 30, 1962, as adjusted. East Tennessee's cost-of-service for all elements other than the Federal income tax allowance was fixed in Opinion No. 488 on an adjusted test year ending September 30, 1964.

Tax Depreciation Practices Permitted by the Internal Revenue Code

Section 167 of the Internal Revenue Code provides that the taxpayer may determine his tax depreciation either by the straight-line method, the declining balance method, or certain other methods not pertinent herein. Straight-line depreciation is designed to produce a uniform annual depreciation deduction over the useful life of the asset. It is computed merely by dividing the cost of the asset, less salvage value, by the assumed service life. The declining balance depreciation method, sometimes called the double declining balance method, is one of the methods of liberalized depreciation authorized by Section 167 for taxable years beginning on or after January 1, 1954, for property constructed in 1954 or thereafter. Under the double declining balance method a uniform rate of twice the straight-line rate is applied to the unrecovered tax basis of the property, *i.e.*, the tax basis less the tax depreciation allowable in prior years. Absent a change in the tax rate, the use of declining balance tax depreciation rather than straight-line depreciation does not change substantially the total taxes to be paid over the life of a particular property; rather, it simply permits a greater tax deduction in the early life of a property than available if straight-line depreciation were taken, offset by a less than straight-line tax deduction in the later life of a property.

We have had occasion to examine, in detail, the impact of liberalized depreciation on the natural gas pipeline industry, generally, and on one company in particular, in our recent *Alabama-Tennessee Natural Gas Company* Opinion No. 417.[5] While, as we there found, it is axiomatic that, other tax elements remaining constant, the total taxes payable with respect to each piece of depreciable property will be the same regardless of the depreciation method used, this does not mean that the tax consequence occasioned by the use of liberalized depreciation can be measured meaningfully on the basis of specific assets or even on the basis of the total assets acquired by a company in any single year. Income taxes and the tax depreciation to be used as a deduction in computing the net tax are measured not on each individual asset but on the taxpayer's total depreciable assets. A utility's depreciable properties include assets of various vintages. Consequently, the less than straight-line depreciation available on older assets under liberalized depreciation tax accounting is counterbalanced by greater than straight-line depreciation on newer assets so long as the company continues the use of liberalized depreciation and continues to make capital additions equal to or exceeding the cost of replacements. Under these conditions liberalized depreciation will always exceed straight-line depreciation and the accumulations established under normalized rate and deferred tax accounting will continue to increase until the dollar value of gross plant stabilizes. Even if the composite plant of a company remains stable, where the dollar value of retirements equals the cost of replacements, annual liberalized depreciation will not be lower than straight-line depreciation, and the reserve established under the normalization will not decline. As the Court of Appeals stated in upholding our decision, conventional accounting fails in these instances because:

> [it] does not take into consideration the effect of applying liberalized depreciation to a utility's total assets which are, of course, subject to a continuing cycle of obsolescence and renewal. If the industry is stable or expanding, requiring the utility's continued reinvestment in plant equal to or in excess

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[5] Issued February 3, 1964, 31 FPC 208; rehearing granted for further consideration, 31 FPC 768; rehearing and stay denied, Opinion No. 417-A, 31 FPC 928.

of plant retirement, a program of liberalized depreciation produces true tax savings because there is no reduction in the tax reserve fund.[6]

Decision in Alabama-Tennessee

The issue herein is an outgrowth of our decision in *Alabama-Tennessee Natural Gas Company*, Opinion No. 417. Briefly summarized, the following conclusions were reached in that case regarding the use of liberalized depreciation instead of straight-line depreciation.

1. The use of liberalized depreciation results in permanent reduction of Federal income taxes by pipelines which maintain either a growing or a stable gross plant, as opposed to a simple tax deferral.

2. Alabama-Tennessee, in particular, and the gas pipeline industry in general, will maintain a growing or stable gross plant in the foreseeable future.

3. In enacting Section 167 of the Internal Revenue Code, Congress did not specify the manner in which taxes computed thereunder by jurisdictional (regulated) companies should be treated for ratemaking purposes. Further, there is nothing in the Internal Revenue Code or its legislative history to show that Congress intended to prohibit flow-through to consumers of the tax savings resulting from the use of liberalized depreciation.

4. The prime purpose of permitting liberalized depreciation is to promote expansion in the capital goods industry. This result will best be served in the case of natural gas pipelines if the tax savings are reflected in lower rates, which will tend to generate higher sales, in turn requiring more capital facilities for gas transmission.

5. Where a pipeline is using liberalized depreciation and its gross plant is likely to be either growing or stable, its cost-of-service and rates should reflect the tax savings resulting from the use of liberalized depreciation. In other words, in these circumstances it must flow-through to its customers the tax savings from liberalized depreciation.

6. No return should be allowed for the future on accumulated deferred tax balances. The pipelines are permitted, however, to continue to have the use of this capital interest free.[7]

The decision in *Alabama-Tennessee* expressly was limited to companies claiming the benefits of liberalized depreciation on their tax returns. As stated in the Opinion:

> We do not have before us the question whether a utility which has not exercised its option to claim the tax benefits of liberalized depreciation should have its rates fixed on the basis of the availability of such higher depreciation deductions, and nothing in this opinion should be taken as an indication of our views on that question. (31 FPC at p. 210)

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[6] *Alabama-Tennessee Natural Gas Co.* v. *F.P.C.*, 359 F. 2d 318, 328, (CA5–1966), footnote omitted.

[7] Prior to Opinion No. 417, the difference between the lower tax actually paid under liberalized depreciation and the higher normalized tax was accumulated in a deferred tax account (Account No. 282, Accumulated Deferred Income Taxes—Liberalized Depreciation) to be used to offset the higher tax payments contemplated in later years. The return on the monies so held, which had at one time been included in the rate base at a full rate of return, *Panhandle Eastern Pipe Line Co.*, Opinion No. 269, 13 FPC 53, aff'd *City of Detroit* v. *F.P.C.*, 230 F. 2d 810 (CADC–1955), and later at a 1½ percent return, *Northern Natural Gas Co.*, Opinion No. 342, 25 FPC 431; *Panhandle Eastern Pipe Line Co.*, 25 FPC 550 (1961), aff'd 316 F. 2d 659 (CADC–1963), cert. denied 375 U.S. 881, was reduced to zero on the ground that these balances were henceforth to be regarded as consumer-contributed capital "collected for a specific purpose of remote and improbable occurrence."

Following our issuance on April 15, 1964, of Opinion No. 417-A denying rehearing, the decision in *Alabama-Tennessee* was appealed to the Court of Appeals for the Fifth Circuit. On March 25, 1966, the court issued its unanimous decision[8] affirming the Commission in all respects. Among its other holdings, the court rejected the argument that Opinion No. 417 conflicted with the intent of Congress as expressed in Section 167 of the Internal Revenue Code and arbitrarily deprived the company of the benefits of congressionally sanctioned liberalized depreciation, holding that the enactment of Section 167 was not intended to restrict our responsibility "to fix fair rates according to our usual ratemaking policies in favor of the consumer" nor our discretionary authority to choose between competing theories of accounting for ratemaking purposes.

The court found that our decision was supported by substantial evidence. It agreed with our finding that the use of liberalized depreciation will *always* result in tax savings rather than tax deferrals for a regulated company so long as the dollar value of the gross plant remains stable or increases. "It is true that the Commission's decision rests on a reading of the future," the court stated. "But clairvoyage is part of the daily grind of a regulatory agency. Whether flow-through or normalization is the rule, the agency must base the rule on some projection of the future. As we see it, the case for normalization requires more speculation than the case for flow-through. And it is at the expense of consumers."

It is not our purpose here to reargue the merits of *Alabama-Tennessee*. Our holdings in that case are set out in full in the Opinion, and the Opinion has received the judicial sanction of the Appellate Court. The decision will be followed by us in similar cases unless it is set aside on an appeal to the Supreme Court.[9]

Before proceeding to a detailed analysis and consideration of these cases it is worthy to note that the evidence before us in the present proceeding is similar to that relied on by the Commission and accepted by the court in the *Alabama-Tennessee* proceedings. There the intervener introduced evidence based on the historical growth pattern of Alabama-Tennessee and of the natural gas pipeline industry to show that Alabama-Tennessee was in fact a growth company whose gross plant was growing annually. In addition, evidence was offered which proved that by virtue of its growth circumstances Alabama-Tennessee would realize an actual tax savings by its use of liberalized depreciation. In the present proceedings staff and the interveners have offered similar evidence of the growth history of the parties here before us, as well as that of the natural gas pipeline industry, and have presented evidence which demonstrates that, in the circumstances, the tax consequences represent a net savings to these companies.

Depreciation Practices of Midwestern and East Tennessee

Midwestern used the declining balance depreciation method in its tax returns for the years 1959 through 1962, inclusive. The Commission's *Alabama-Tennessee* Opinion was issued February 3, 1964. This date was subsequent to the conclusion of the hearings in the then pending Section 5(a) proceeding fixing the Midwestern cost-of-service but prior to the initial decision thereon. During the test period Midwestern took full advantage of liberalized depreciation in filing its tax returns. The Examiner, relying specifically on Opinion No. 417, utilized liberalized depreciation in computing Midwestern's tax allowance.[10] His decision was issued April 29, 1964. On May 11, 1964, twelve days after the initial decision, Midwestern's board of directors adopted a resolution ordering the use of straight-line depreciation for its Federal tax returns effective as of January 1, 1963.[11] In Opinion No. 444 we determined that Midwestern should "be given an opportunity to present evidence to show why it has changed to straight-line depreciation, how the use of liberalized depreciation in computing taxes for ratemaking purpose might adversely affect its interests, the effect of its change to straight-line depreciation on the rates to be charged consumers *vis-a-vis* the Commission's determination in Opinion No. 417, [and] the method to be used in applying accumulated deferred taxes against its increased tax costs and any other relevant facts."

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[8] *Alabama-Tennessee Natural Gas Co.* v. *F.P.C.*, 359 F. 2d 318 (CA5–1966); petition for certiorari pending.

[9] *Alabama-Tennessee Natural Gas Co.* v. *F.P.C.*, No. 286, Oct. Term 1966, petition for certiorari filed June 28, 1966.

It may be noted at this point that there is no issue herein as such as to the application of the reserve accumulated by Midwestern for deferred taxes or the deduction thereof from the rate base. Pursuant to a December 1964 settlement,[12] Midwestern has refunded to its customers the full amount of the reserve ($3,569,600) accumulated during the years it utilized liberalized depreciation.[13] Moreover, the proper treatment of these past accumulations is not at issue in this proceeding but is the subject of a pending notice of rulemaking in Docket No. R–264,[14] action on which has been deferred to this time pending judicial affirmance of our decision in *Alabama-Tennessee.*

East Tennessee's situation parallels in many ways that of Midwestern. East Tennessee had been using liberalized depreciation since 1954. In December 1964, after commencement of the proceedings in Docket No. RP65–4, its board of directors ordered the conversion to straight-line depreciation. East Tennessee filed its 1964 tax return on this basis and, like Midwestern, any future change can only be made prospectively with the approval of the Commissioner of Internal Revenue. In Opinion No. 488 we stated that we would, "for the interim, compute East Tennessee's cost-of-service tax allowance on the basis of straight-line depreciation with a condition requiring additional rate reductions in the event liberalized depreciation is found appropriate in the decision in the consolidated proceedings." [15]

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[10] 32 FPC 1012, at p. 1062.

[11] Section 167(e)(1) of the Internal Revenue Code permits a taxpayer to change at any time from the declining balance depreciation method to the straight-line method without obtaining consent of Internal Revenue. The converse is not true; once the taxpayer elects to go from liberalized to straight-line, consent is necessary to affect a reversion. Internal Revenue has ruled that such consent cannot be granted retroactively (Exhibit R–1).

[12] 32 FPC 1548. The settlement approved all contested cost-of-service items other than the reserved depreciation issue.

[13] Midwestern's action in refunding this amount to its customers was part of the total package of considerations underlying the settlement agreement. In Opinion No. 417, 31 FPC 208 at p. 220, we sought to encourage companies that have taken liberalized depreciation in the past to pay back the accumulated reserves to their customers if they concurred in our conclusion that they would sustain no injury but did not so require; those companies wishing to maintain the fund (without any return being based thereon), as a protection against the unlikely event of increased taxes, were expressly permitted to do so. It is pertinent to note in this connection that Midwestern has at no time been required, by the settlement terms or otherwise, to reduce its rates to reflect the tax savings which it realized as a result of making the refund.

[14] 29 F.R. 9723; order denying motions, 32 FPC 803, 29 F.R. 13119. The Commission has proposed the amendment of the Uniform System of Accounts and the Annual Report forms for electric and natural gas pipeline companies so as to specify a requirement for actual tax expense accounting. The proposal also provides that accumulated deferred tax balances may be maintained intact in the present account if it is retained by the regulated company in order to offset possible future increases in actual tax liabilities stemming from the use of liberalized depreciation in earlier years. The accounts previously established for the normalization of such tax benefits would continue in the proposed accounting system for the use of such companies who can show that their gross plant investment is neither growing nor stable and would thus be authorized to continue the use of such accounts.

Arguments by Midwestern and East Tennessee Favoring Changeover

Midwestern contends basically that its decision to change its depreciation practice from liberalized to straight-line depreciation was reasonable in the considered judgment of its directors and that the Commission is required to accept that judgment for regulatory purposes. It further contends that the Examiner erred in holding that its action "frustrates the policy of Alabama-Tennessee", which case, it points out, was limited solely to the situation of a company taking liberalized depreciation at the time of our final decision. It also argues that the claims of the parties favoring liberalized depreciation and the Examiner's decision conflict with the holdings of the *Wisconsin Michigan* and *United Gas Pipe Line* cases,[16] as well as certain state regulatory decisions.

Both in its briefs and in the oral argument Midwestern has pointed out a variety of alleged substantial adverse effects it would suffer from a requirement of flow-through. These include the potential future tax increase argument (*i.e.*, that use of liberalized depreciation results only in a deferral, not a savings of taxes); the fact that it is in close competition with other systems having significantly lower rates and that no substantial increase in sales is projected; that its past sales growth has been entirely in the area of normal build-up following certification and cannot be taken as indicative of its future sales growth or of its need for new plant additions; that the tax depreciation deduction used in the Examiner's initial decision in April 1964 substantially exceeds the comparable straight-line depreciation deduction available to it, with the result that the continued use of liberalized depreciation would have required rate increases of approximately $1,000,000 in 1965 and $270,000 each year thereafter in order to offset the annual increase in taxes resulting from the decreasing depreciation tax deductions; that the reduction in the tax component of the cost-of-service is more than offset by other recent cost increases (gas purchase costs, wages, materials, etc.); that its past and expected future plant growth rate are small, differing substantially from the industry average while, because of the newness of its plant and the consequent greater rate of annual decline in tax depreciation than for plants of older vintage, its rate of plant additions would have to be above the industry average to maintain the same annual liberalized depreciation tax deductions; and that its bond coverages would be reduced with flow-through, impairing its ability to issue new securities.

Finally, Midwestern claims that the "assumed minimal future average" plant additions of 1.5 percent per year for the years 1966–1970 projected by the Examiner in calculating the amount of the allowed liberalized depreciation tax deduction cannot be used since they are uncertain and speculative.

East Tennessee in its exceptions reiterates Midwestern's arguments that there is no evidence to support the claim that its management's decision was unreasonable, that our holdings in the *United* and *Wisconsin Michigan* cases and the State decisions are valid precedent for permitting it to utilize straight-line depreciation, and that there is no absolutely clear showing that it will have sufficient continuing growth in the future to offset the potential increased tax liability resulting from the use of liberalized depreciation on its entire plant. Except as otherwise necessary we shall consider these objections as they relate primarily to Midwestern, discussing East Tennessee directly only insofar as factual distinctions dictate a separate consideration.

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[15] Footnote 2, *supra*, p. 64.

[16] *United Gas Pipe Line Co.*, Opinion No. 428, 31 FPC 1180 (1964); *Wisconsin Michigan Power Co.*, Opinion No. 432, 31 FPC 1445 (1964).

Obligation to Reflect Available Cost Savings

As noted by Examiner Wenner in his initial decision in *East Tennessee*, we are not here deciding how Midwestern and East Tennessee shall compute their Federal income taxes. The companies are, of course, free to elect their own method for such filings but, realistically, we would not expect the companies to continue the use of straight-line depreciation. The issue is whether the increased tax payments resulting from the decision to discontinue use of liberalized depreciation is a reasonable and prudent business expense which the customers may properly be required to bear. Paraphrased, the issue is whether Midwestern and East Tennessee are fulfilling their duties under the Natural Gas Act when they voluntarily take an action of the character here involved, which will necessarily have the effect of substantially raising their costs and rates. For the reasons advanced in this proceeding, we hold that they are not.

An elementary proposition of utility law and utility regulation, universally recognized, is that public utilities, in the interest of their customers as well as in their own interest, should be permitted to charge rates which are compensatory of the full cost incurred by alert, efficient, and responsible management. It is equally elementary that customers should not be required to pay more than this cost. As stated by the Supreme Court:

> The contention is made that the amount to be expended for these purposes is purely a question of managerial judgment. But this overlooks the consideration that the charge is for a public service, and regulation cannot be frustrated by a requirement that the rate be made to compensate extravagant or unnecessary costs for these or any purposes. *Acker* v. *United States*, 298 U.S. 426, 430–431 (1935).

This requirement to utilize all available cost saving opportunities is applicable to tax savings as well as general economies of management, *El Paso Natural Gas Co.* v. *F.P.C.*, 281 F. 2d 567, 573 (CA5–1960), cert. denied 366 U.S. 912.

It is neither our purpose nor our desire to dictate every phase of the operating practices of the natural gas companies coming within our jurisdiction. The Commission has no authority either to conduct or supervise the day-by-day operations involved in the production and transportation of natural gas in interstate commerce. Those functions are left to management for decision and the managers exercise a broad area of discretion in the conduct of their business affairs. In the exercise of the authority conferred upon us by the Natural Gas Act, our function is to review those business judgments to assure they do not impair and are consistent with the concomitant obligation of management to make available the natural gas supplies needed by the consuming public at the lowest reasonable rates consistent with the public interest.[17]

Managements of unregulated business subject to the free interplay of competitive forces have no alternative to efficiency. If they are to remain competitive, they must constantly be on the lookout for cost economies and cost savings. Public utility management, on the other hand, does not have quite the same incentive. Regulation must make sure that the costs incurred in the rendition of the service requested are necessary and prudent. Basically, unless an abuse of discretion is shown, expenses incurred in the rendition of the service are primarily a matter of managerial judgment. This does not mean, however, that extravagant and unnecessary costs can be imposed on the ratepayers, no matter how convinced management may have been that those costs were necessary in its own interest. *Acker* v. *U.S., supra.*

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[17] Natural Gas Act, Section 1, 15 U.S.C. Sec. 717(a); *Hope Natural Gas Co.* v. *F.P.C.*, 320 U.S. 591 (1944); *Phillips Petroleum Co.* v. *Wisconsin*, 347 U.S. 672 (1954).

Since the reviewing of rates charged by jurisdictional companies, and their adjustment when necessary, is one of our primary responsibilities, and since rates, under our original cost-rate base mode of regulation, are based on costs, it was necessary, early in the life of the Commission, to set up what has come to be known as the Uniform System of Accounts for companies subject to the provisions of the Natural Gas Act. Under this system the Commission has long exercised its responsibility to scrutinize the costs recorded by the companies and, where a cost claimed bears no reasonable, functional relationship to the provision of the service for which the rate is to be charged, to disallow the cost.

INGAA and the pipeline companies argue that the exercise of regulatory authority over operating costs amounts to a confusion of regulation with management or, as variously described, an invasion of "management prerogatives", "managerial discretion", and "management responsibilities". Managerial decisions relating to the implementation of Federal tax policies differ in nature from those pertinent to general pipeline operations. The Federal tax policy clearly encourages taxpayers to avail themselves of all lawful means for reducing their Federal tax liability and, absent a clear declaration to the contrary, the consumer is entitled to share in the Federal tax benefits allowed public utilities. In these circumstances our expertise necessarily encompasses evaluation of managerial decisions relating to the use of Federal tax benefits available for reducing the utilities' general Federal tax liability.

Just as there are areas where regulation should not interfere, so are there areas where the Commission must apply its judgment in the performance of its obligation to protect the public interest.[18] It is here that regulation must appraise and be prepared to guide and restrain management's judgment—in the same sense that competition in the free market area guides and restrains managerial judgments in business not subject to regulation.

A wholly valid argument is made that regulation must not engage in a reconsideration of every operating decision made by management and that the substitution of the regulatory agency's judgment for that of management on every disputed operating item can only stultify the normal performance of the management function. We agree. Regulation must act with restraint in seeking to substitute the regulator's views for that of management on matters of operational policy. But regulation is reduced to an exercise in futility if it is barred or bars itself from a review of management claims for the recovery of costs running into millions of dollars solely because "management has exercised its judgment." [19]

Tax Benefits as Cost Savings

Under accepted regulatory practice, taxes, including income taxes, are treated as necessary operating costs to be recovered in the rates charged the users of the public utility service. *Galveston Electric Co.* v. *Galveston*, 258 U.S. 388. In this regard the utility company serves as little more than a tax-collecting conduit between the users of the service and the taxing authority. As recoverable costs, tax payments necessarily come under regulatory scrutiny and, where the level of those payments is affected by managerial action, they necessarily fall within the ambit of regulatory authority.

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[18] *Atlantic Refining Co.* v. *F.P.C.*, 360 U.S. 378 (1956).

[19] The Statistics for Interstate Natural Gas Pipeline Companies reveal that $47,850,000 in deferred tax monies was accrued by all Class A and B pipelines in the year 1963. This amount, if flowed-through to the consumers in 1963, would have resulted in an industry-wide rate reduction of approximately $100 million. The accumulations for 1961 and 1962 were $50.7 million and $53 million, respectively. More recent compilations show further gross accumulations of $38 million in 1964 and $35.6 million in 1965. Thus, the accumulation of these deferred taxes by the pipelines has resulted in the collection of more than $450 million of additional revenues in the years 1961–1965.

Midwestern has stated that it knows of no case which indicates that a regulatory commission may depart for ratemaking purposes from the tax deduction shown in a company's Federal income tax return.[20] It concludes that the Examiner erred, therefore, in holding that it must justify its reversion to straight-line depreciation. Midwestern recognizes that cases dealing with situations where commissions have disregarded a company's actual debt ratio and the tax deductions claimed in its tax return for interest expense are particularly apt. It cites the case of *Re Diamond State Tel. Co.*, 48 Del. 317, 350, 103 A. 2d 304, 324 (1954), for its thesis that a commission is bound by the judgment of a company's management on these matters and can impute hypothetical tax deductions only upon a showing of a gross abuse of discretion. As noted by staff, Midwestern fails to recognize that *Diamond State* and the other cases on which it relies[21] represent a view which has been squarely repudiated by the decisions of many State courts wherein they have allowed income taxes and the costs of capital to be fixed on an ideal debt-to-equity ratio as determined proper by the Commission over the companies' objections that managerial discretion was being unlawfully invaded.[22]

In *C. & P. Tel. Co.* v. *Maryland Public Service Commission*, 97 PUR (n.s.) 50, 93 A. 2d 249 (1952), the State commission disregarded the actual interest expense shown on the company's tax return and imputed to it the higher tax deductions it would have enjoyed if it had the same capital structure as the Bell System, taken as a whole. In rejecting the company's claim that the Commission's action unlawfully invaded its management responsibilities, the court stated:

> The company says that the adjustment invaded the prerogative of a sound, honest, and competent management and that the commission could properly make the adjustment only on a finding of abuse of discretion, bad faith, or wastefulness. It says the commission is deciding what only the directors of the company could decide—the proper corporate structure.
>
> We think the commission was justified in its action. The owner and manager of the company have the right to determine what its debt-equity ratio

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[20] See, however, *Re Bangor Hydro-Electric Co.*, 26 PUR 3d 489 (Me. PUC, 1958) and *New York State Water Service Corp.* v. *Public Service Comm.*, 37 PUR 3d 442, 208 N.Y.S. 2d 857. *Cf., United Fuel Gas Co.* v. *P.S.C. of W. Va.*, 46 PUR 3d 118 (P.S.C. of W. Va., 1962), petition for review denied, *United Fuel Gas Co.* v. *P.S.C. of W. Va.* (S. Ct. of App. of W. Va., May 20, 1963 and May 29, 1963), appeal dismissed for want of a substantial Federal question, 376 U.S. 784.

[21] Brief on Exceptions, fn. 4.

[22] *Alabama* v. *Southern Bell Tel. & Tel. Co.*, 47 PUR 3d 65, 67, 148 So. 2d 229 (1962); *Re Mountain States Tel. & Tel. Co.*, 8 PUR 3d 265, 273, 284 P. 2d 681 (1955); *La Salle Telephone Co.* v. *Louisiana Public Service Commission*, 51 PUR 3d 183, 157 So. 2d 455 (1963); *Chesapeake & Potomac Telephone Co.* v. *Public Service Commission*, 97 PUR (n.s.) 50, 93 A. 2d 249 (1952); *New England Tel. & Tel. Co.* v. *Massachusetts Department of Public Utility*, 6 PUR 3d 65, 74–75, 121 NE 2d 896 (1954); *New England Tel. & Tel. Co.* v. *Department of Public Utilities*, 88 PUR (n.s.) 73, 82, 97 NE 2d 509 (1951); *Southern Bell Tel. & Tel. Co.* v. *Mississippi Public Service Commission*, 29 PUR 3d 417, 456–457, 113 So. 2d 622 (1959); *New England Tel. & Tel. Co.* v. *State of New Hampshire*, 44 PUR 3d 498, 505, 183 A. 2d 237 (1962); *New Mexico State Corporation Commission* v. *Mountain States Tel. & Tel. Co.*, 4 PUR 3d 33, 270 P. 2d 685 (1954); *Riverton Consolidated Water Co.* v. *Pennsylvania Public Utilities Commission*, 24 PUR 3d 9, 16–17, 140 A. 2d 114 (1958); *Re New England Telephone & Telegraph Co.*, 90 PUR (n.s.) 414, 430–431, 80 A. 2d 671 (1951).

> should be, but they may not always make the rate-payers foot the bill resulting from the choice. There was no legal need for the company to pay more than its proportionate share of the joint tax liability. It has not shown any reason or necessity for its assumption of a tax liability greater than it owed or any particular consideration passing to it from A.T. & T., its sole owner, for contributing a gift to that owner.

Whatever may be the prevailing view of the States, the precedent of this Commission is clear. In the *Safe Harbor* case, in setting the rate of return, we rejected the company's actual cost of capital on the basis that the company could have substantially reduced its interest expenses by refinancing. As we there said:

> [W]here, as here, management is laggard in taking advantage of the prevailing low money rates, we have no recourse but to use proper current interest rates, rather than the excessive rate actually paid by the company. Any other treatment would be a premium on inefficiency.[23]

In the same case we also assumed an appropriate capital structure differing from the company's actual debt-ratio in our rate of return considerations. In upholding the Commission's action the Court of Appeals for the Third Circuit held that this involved considerations peculiarly within the administrative capacity of the Commission which were supported by substantial evidence, but, that "[W]ere we reviewing the matter *de novo* we would reach the same conclusions as those expressed by the Commission." [24]

Midwestern cites *City of Pittsburgh* v. *Pennsylvania Public Utility Commission*, 25 PUR 3d 273, 144 A. 2d 648 (1958), where the Pennsylvania Superior Court affirmed a State commission ruling that the choice under the tax laws between liberalized and straight-line depreciation belongs exclusively to the company and could not be overthrown by the regulatory agency. However, unlike the conclusions reached by this Commission in Opinion 417, the Pennsylvania Commission had not made any finding to the effect that the use of liberalized depreciation by a growing utility results in a permanent tax reduction. It was in this context that the Pennsylvania courts held that where a utility has the option by law to take or not to take liberalized depreciation, the exercise of that option cannot constitute an abuse of discretion.

In *Alabama-Tennessee* we rejected a related argument advanced by the Tennessee Valley Municipal Gas Association. It contended it would be an abuse of our discretion to allow anything more than the dollar total of taxes actually paid by Alabama-Tennessee in the test year. In denying this argument we stated:

> * * * These parties have erred in equating current taxes paid during the test year with the taxes properly allowable for rate-making purposes. Income tax allowances have never been mechanically geared to test year tax expenses. On the contrary, past tax expenses are significant only insofar as they constitute a guide to recurring tax obligations. Deferred taxes are merely one example of rate adjustments designed to normalize the actual taxes of the test year.

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[23] *Safe Harbor Water Power Corporation*, 5 FPC 221, 260.

[24] *Safe Harbor Water Power Corporation* v. *F.P.C.*, 179 F. 2d 179 at 200–201 (CA3–1949), cert. denied 339 U.S. 957 (1950). The Commission also used an assumed capital structure it considered appropriate without respect to the actual capital structure of the company in its rate of return evaluation in *South Carolina Generating Co.*, 16 FPC 52, remanded 249 F. 2d 755; 19 FPC 855, remanded on other grounds 261 F. 2d 915. We have also required the submission of amended financing plans when the plan proposed has included too thin an equity base. *Houston Texas Gas & Oil Corp.*, Opinion No. 301, 16 FPC 118, 140–141; *Permian Basin Pipeline Co., et al.*, Opinion No. 249, 12 FPC 85, 93.

> The assertion that this Commission as a matter of law can recognize only currently payable taxes regardless of the factual circumstances runs afoul of the relevant Court decisions which establish that the rate treatment of liberalized depreciation is a matter of administrative discretion.

In our opinion, the same reasoning applies equally in the determination whether, in the converse situation, we may recognize a tax allowance based on hypothetical liberalized depreciation where a company is actually taking straight-line depreciation. The court's decision upholding our *Alabama-Tennessee* ruling both enforces our conclusion that this is a proper area for Commission review and removes any remaining doubt that we are in any way controlled in our ratemaking authority by the fact of the Federally created tax option.

In *El Paso, supra*, the court rejected El Paso's argument that the requirement for flowing through optional tax benefits under the liberalized depreciation provisions of the Internal Revenue Code was inconsistent with the intent of Congress, holding:

> The requirement that the Commission determine a just and reasonable rate is not modified by reading into the statute an exception to the extent that the prices charged may be sufficient to afford a just and reasonable rate plus an amount representing a saving in taxes granted to the gas industry * * *. We think, in short, that there is no statutory authority for the Commission to treat actual savings in taxes to which natural gas companies are entitled any differently than savings in any other cost-of-service. (281 F. 2d at p. 573)

At this juncture, and with the background of the court decisions in the *El Paso*, *Panhandle Eastern*, *Cities of Lexington*,[25] and *Alabama-Tennessee* cases, there is no remaining validity to the contention that the tax benefits allowed public utilities by Congress, absent a clear declaration to the contrary,[26] are for the exclusive benefit of their stockholders. Rather, the decisions show that the utilities are under a positive obligation to share with their consumers the savings resulting from the exercise of the tax options.

Validity of Claims Opposing Required Use of Liberalized Depreciation

Midwestern's arguments to the effect that we are required, for regulatory purposes, to accept the "considered judgment of its directors" in this area has already been referred to and is rejected. As we have stated, the scope of managerial discretion is wide; however, under regulation it is not plenary. We cannot overlook the fact that amounts charged in the cost-of-service as Federal income taxes are being collected from the ratepayers and that the ratepayers have a right to expect this Commission to allow, as an expense, only the amounts reasonably necessary for this and any other purpose.

In *United Gas Pipe Line Company*, Opinion No. 428, and *Wisconsin Michigan Power Company*, Opinion No. 432, both decided after our decision in *Alabama-Tennessee*, we declined the requests of certain interveners to compute the tax allowance on the basis of an assumed use of liberalized depreciation when the companies had always used straight-line depreciation. Midwestern and East Tennessee argue that our decision in those cases establish a precedent on our part that the Federal income tax allowance must reflect the actual taxes paid and that it would be inconsistent to allow anything less than their tax expense as determined by them under any of the several Section 167 tax options. Our holdings there were based on the failure of the proponent of compulsory flow-through to make a persuasive showing that mandatory use of liberalized depreciation methods would result in a net tax savings to those companies. In the present record we are persuaded that the initial decision of Midwestern and East Tennessee to utilize liberalized depreciation was correct and that the continued use thereof will result in tax savings to these companies.

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[25] *Cities of Lexington, et al.* v. *F.P.C.*, 295 F. 2d 109 (CA5–1961).

[26] Compare the treatment accorded to investment tax credit in the 1964 Revenue Act where Congress expressly provided that regulatory agencies were not to use the credits generated under Section 38 to reduce the tax component. P.L. 88–272, Section 203(e), 78 Stat. 35.

The argument that the use of liberalized depreciation results in a tax deferral rather than a tax saving was, of course, the basic issue in the *Alabama-Tennessee* proceeding. It has been adequately answered with respect to growing or stable pipeline companies in our Opinion in that proceeding and in the court's unanimous decision upholding our position, as well as in our earlier discussion herein. The real issue, as to Midwestern and East Tennessee, is whether or not they will experience growth, stability, or a decline in their gross plants. As discussed below we find that the evidence fully supports that Midwestern will, for the future, experience minimum average plant additions of 1.5 percent per year. East Tennessee's growth prospects, averaging in excess of 4 percent per year as we here find, are not open to serious dispute. In these circumstances, as we found in our *Alabama-Tennessee* Opinion, there can be no question but that, insofar as Midwestern and East Tennessee are concerned, their use of liberalized depreciation will result in actual savings, not merely a tax deferral.

While it is at least possible that a company taking liberalized depreciation will experience a tax increase at some indefinite time in the future, this can occur only if the dollar additions to its gross plant do not keep pace with gross plant retirements. Considering the many factors involved, including the significant increase in facility costs over the past years, we are not persuaded by the argument in the absence of a positive showing of a declining plant balance in the particular case under consideration. In the words of the Fifth Circuit in its decision in *Alabama-Tennessee*, "* * * the case for normalization requires more speculation than the case for flow-through. And it is at the expense of the consumers."

Midwestern notes that it is in close competition with other pipelines having significantly cheaper rates, particularly with respect to its ability to secure additional sales on its Southern System. Thus, it argues that realistically it could not seek a future rate increase to offset future increases in tax liability resulting from its flow-through of the benefits of liberalized depreciation in the event our predictions as to its plant growth are inaccurate.

By changing over to straight-line depreciation, Midwestern incurred a larger tax expense than would have been the case under continued liberalized depreciation. It took this action despite the competition in the Chicago area which it is currently experiencing. Seemingly it was not bothered by the additional expense at this time. We question, then, Midwestern's concern over its competitive circumstance at some future date when, theoretically, it will be serving customers acquired in today's market under long-term gas supply contracts.

Further, as we will discuss in detail later, the evidence in the present proceeding provides no support for Midwestern's contention that it is in a declining plant circumstance. Assuming *arguendo* that Midwestern is correct, the City of Chicago evidence clearly shows that even with zero plant additions, without replacements, savings will be realized by the setting of rates on the basis of liberalized depreciation with flow-through for the period through

1972.[27] Under this assumption, as argued by the City of Chicago, Midwestern might then be allowed to revert its entire plant to straight-line depreciation at the beginning of 1973 if such is advantageous to it.[28] This change-over would be postponed, however, if sufficient plant additions or replacements were made in the interim to show a continuing benefit from liberalized depreciation.

Midwestern assumes that the present consumers should be obligated to underwrite higher expenses to insure Midwestern's stockholders against the uncertain contingencies of adverse competitive situations in the future. We reject the concept that consumers are guarantors of a pipeline's future earnings. We have, of course, recognized Midwestern's highly competitive situation in our rate design in Opinion No. 477.[29] For example, its Southern System commodity rates, when the higher Btu content of Midwestern's gas is considered, are equal to the commodity rates of its principal competitor, Natural Gas Pipeline Company of America. Of course, as discussed below, its basic thesis that it is not a growth company is inaccurate. In these circumstances the use of liberalized depreciation to lower Midwestern's rates will in fact be advantageous to its competitive situation. Despite the assertions regarding the minor amount of reductions in rates to be occasioned by an order requiring liberalized depreciation, we find nothing in the arguments made by the pipelines and INGAA to lead us to doubt the correctness of our conclusion, which has been so recently affirmed by the court in the *Alabama-Tennessee* proceeding.

Finally Midwestern also assumes that the proper tax allowance and the reduction in the future revenue requirements attributable thereto which we find appropriate in these proceedings are fixed and immutable for all time. The rates which we herein prescribe are those required, in our opinion, by Midwestern and East Tennessee to cover all their reasonable jurisdictional costs and to provide a fair rate of return from their operations through the ensuing few years. Whether these same rates or, for that matter, the same ratemaking treatment of the companies' tax depreciation practices, will remain in effect following our next rate review will be determined by the findings and conclusions reached at that time on the facts as then presented.

Midwestern also contends that the use of flow-through of liberalized depreciation will necessitate a rate increase to compensate for the loss of deductions in its tax computation, since it is not a growth company. It further argues that any reduction in the tax component of its cost-of-service attributable to liberalized depreciation is more than offset by other recent cost increases. In *Midwestern*, as in *East Tennessee*, the issue of the tax allowance was reserved in the rate cases fixing, for the interim, the approved cost-of-service and the parties were on notice that additional rate reductions might be required depending on the outcome of this proceeding. Whether Midwestern or East Tennessee will in fact need a rate increase for the future for expenses other than the reserved tax issue can properly be established only in the context of a new proceeding under Section 4 or 5 of the Act. Midwestern contends that a rate increase will be necessary to offset its loss of deductions in tax computations since its net rate base has been falling. Specifically, Midwestern notes that Examiner Zwerdling's decision in April 1964, 32 FPC 1012, recommended the flow-through of $2,050,051 per year based on the test year experience. Midwestern is understandably concerned if its rates are set on the flow-through of the high level of tax savings experienced in the test year. But, as Examiner Levy made clear, this problem can be avoided by computing the tax savings attributable to liberalized depreciation by using the future five-year average impact of the 1.5 percent annual growth rate which the evidence establishes is appropriate. Over the period for which the rates will be applicable the net amount of the liberalized depreciation flow-through will not exceed, in our opinion, Midwestern's experienced savings. The Midwestern exhibit offered to support its contention assumes a static plant, which as noted, is contrary to the average of their historic experience, and is contrary to our findings as to its future experience. Finally, even if Midwestern's predictions are true and the plant remains static, this will not affect their level of sales. As staff's and the City of Chicago's evidence shows, the excess earnings associated with the declining net rate base would be available to substantially offset the loss of tax deductions attributable to liberalized depreciation without impairment to their allowed rate of return.

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[27] The Chicago exhibit showed savings through 1972, but a portion of these savings are attributable to a lowered return in the later years of the period due to the assumed declining rate base.

[28] This assumes a change-over from liberalized to straight-line depreciation must occur at a single point in time for the entire plant. This is contrary to sound business practices for companies, such as gas pipelines, with assets of varying vintage and is not required under the tax laws. The law permits selective change-over with respect to individual items, groups, classifications or composite accounts at any time such change-over is advantageous to the taxpayer. It is customary for taxpayers taking liberalized depreciation to revert to straight-line depreciation as tax items age, generally at one-year past the halfway mark on the item's estimated service life. This permits the realization of the full benefits of liberalized depreciation in the early years of the asset and minimizes the rapid decline in depreciation benefits in the asset's later life. It also prevents any sudden increase in taxes when a company reverts to straight-line depreciation as tax items age.

[29] Issued September 28, 1965, 34 FPC 973.

The Examiner's discussion with regard to bond interest coverage, credit standing and continued financial integrity of Midwestern adequately disposes of the arguments related thereto, and is adopted here. It should be noted that the Commission, in approving a 6.5 percent rate of return for Midwestern at the time of its determination of the cost-of-service issues in 1964, adopted the Examiner's decision which made clear that the Commission would not be restricted in its ratemaking authority by the nature of Midwestern's bond coverage requirements.[30] As therein found, purchasers of Midwestern's bonds knew that there would be relatively low coverages at any projected rate of return which the Commission could reasonably have been expected to authorize, and the bonds carried both high interest rates and warrants for the purchase of Midwestern stock, as a consequence. Further, Midwestern's earnings circumstances have never permitted it to fully comply with these restrictive coverage requirements[31] and, as staff points out, the use of flow-through in lieu of deferral has only a limited impact on Midwestern's ability to meet these coverage requirements.

Midwestern and East Tennessee argue that if required to adopt the use of liberalized depreciation, and flow-through the benefits resulting therefrom, they will require a higher overall rate of return in order to attract all necessary capital. In Opinion Nos. 444 and 488 we set 6.5 percent as the appropriate overall rate of return for these companies. We find nothing in the present record which would justify our reopening that issue, or cause us to approve a higher rate of return for these companies.

Staff excepted to the Examiner's failure to find that Midwestern's gross plant will grow at an annual rate of seven percent, consistent with the industry average in the ten-year period from 1954 to 1963. In its brief opposing staff's exception, INGAA argues that the record data does not establish an industry growth rate of seven percent and also alleges that an analysis of the same data reveals a drastic down-trend in the growth rate of the pipelines in recent years. Thus, it states, "While the compound growth rate for the 40-company group for the 10-year period 1954–1963 is 7.1%, the sample growth from 1960 forward has trended downward from 10.9% to 4% in 1963. Moreover, the growth rate on gross plant in 1964 was reduced to a mere 2.3%."

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[30] *Midwestern Gas Transmission Co.*, Opinion No. 444, 32 FPC 993, 998–1001, 1006. For examiner's decision, see 32 FPC 1012 at pp. 1052–1053.

[31] Staff's reply brief, appendix 2, shows that Midwestern has never succeeded in meeting the first and second coverage requirements. The third coverage requirement has been met only twice, in 1962 and 1964, when the company had excessive earnings.

Although our primary concern, for the purpose of this Opinion, is with the anticipated growth of Midwestern and East Tennessee, rather, than the industry as a whole, it should be noted that the 2.3 percent growth rate developed by INGAA does not provide a true picture. This is so for the reason that among the companies included in the sample is The Ohio Fuel Gas Company which in 1964 divested itself of $187,144,000 in distribution plant facilities. Reflecting this amount in the plant figures shows a growth of 5.2 percent over the previous year, which is an increase over the 1963 rate.

Prospects for Growth

As noted, the central thesis underlying Midwestern's objections to the flow-through of the benefits of liberalized depreciation is its contention that it is not a growth company. East Tennessee similarly contends that their anticipated level of growth is not adequate to justify the flow-through of the benefits of liberalized depreciation in establishing their rates. In the *Alabama-Tennessee* proceeding we held to the effect that liberalized depreciation results in permanent tax savings for stable or growing companies and that before requiring a company using liberalized depreciation to reflect such tax savings in its rates, a finding was required that the company or companies concerned would maintain a growing or stable plant for the foreseeable future. In upholding our finding, the court noted that it is sufficient if the decision "is based on substantial evidence of present conditions * * * If the Commission is wrong, the pipeline will still have paid only actual taxes; these will be recouped in full as part of the cost of service." The court went on to note that should the future support the Commission's evaluation "and should normalization be allowed, consumers will have made enormous contributions to the pipelines' capital funds at no costs to the pipelines." Accordingly, it is necessary to estimate reasonably the growth potentialities of Midwestern and East Tennessee in order to determine both if they will realize permanent tax savings from the taking of liberalized depreciation and to fix the amount of the tax allowance to be included in the cost-of-service.

Midwestern relies on the fact that its past plant growth was only .28 percent between 1962 and 1964. We note, however, in 1966 Midwestern has committed itself to an investment of $8 million in new plant and that its historical average annual rate of growth was 2.075 percent from 1961 through 1966. This comports largely with admissions by a Midwestern witness during the hearing. For example, for the year 1966, the witness testified that gross plant additions would be made in an amount of $22,573,343.[32] Midwestern, in its initial brief to the Examiner, described this witness' testimony as supporting an estimated average annual growth of 1.5 percent per year over the 5-year period beginning October 1, 1965.[33] Despite this modest rate of growth in net plant, as staff evidence shows, Midwestern has experienced a consistent increase in its annual and peak day sales. Thus, the deliveries on Midwestern's Southern System in 1960, the first full year of operation, were 94,201,000 Mcf. By 1964 the yearly volume had risen to 139,667,000 Mcf, an average annual increase of 12.03 percent. Northern System deliveries have gone from 49,138,000 Mcf in 1961, the first year, to 73,365,000 Mcf in 1964, an average annual growth in sales of 6.89 percent. Peak day sales for both systems increased from 572,762 Mcf in 1961 to 631,701 Mcf in 1964, an average yearly increase of 3.43 percent.

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[32] Since time filings have been made with the Commission seeking authorization for these facilities. See Docket Nos. CP66–119 and CP63–80. As discussed hereafter, we do not rely on the $14 million of facilities in Docket No. CP66–119 for the purposes of our decision herein.

[33] Midwestern's brief to the Examiner, RP61–19, *et al.*, pages 35 and 36.

The argument is made by Midwestern that its past sales growth constitutes a normal buildup following certification and is not a valid indication of its future sales growth or of its need for new plant additions. It is correct that both of Midwestern's systems have been in their developmental phase. Consequently there has been little increase over the gross plant initially constructed in 1959 and 1960. But, as the Examiner properly notes, this past history is of little value since Midwestern, when constructed, had substantial excess capacity and is only now reaching the limits of its physical plant capacity. Thus, assuming that its future rate of growth in sales increases only at the same rate as in the past Midwestern would be required to increase the capacity of its present plant by at least 3.4 percent each year.

An analysis of Midwestern's Form 2 filings for the years 1960 through 1965 reveals that the Southern System sales have in fact grown substantially over the years. The markets which formed the basis for the certification of the system in 1959 (Opinion No. 320, 21 FPC 653) consisted of Northern Illinois Gas Co., where the contract demand was for 60,000 Mcf per day for the term of the contract, a maximum of 100,000 Mcf per day to Peoples Gas Light and Coke Co., and a maximum of 200,000 Mcf per day to Northern Indiana Public Service Co. (NIPSCO).[34] In 1963, the contract demand of Northern Illinois was raised to 100,000 Mcf per day. Further, Midwestern sells additional volumes of gas to these customers under other rate schedules. Finally, the Form 2's show that Midwestern has picked up new customers since 1960, at least six of whom were added in its Southern System since 1963. For these reasons we cannot agree with the argument that Midwestern's past sales growth is solely the "natural buildup following certification."

Furthermore, Midwestern services the Southern and Western segments of the Great Lakes megalopolis which has and will continue to express a significant growth in population, general economy and energy requirements. Recognizing the rich potential of these markets staff's assumptions are modest. Of course, we cannot accept staff's reliance on uncertificated facilities pending before us in competitive proceedings but we agree that the pendency of such applications is valid evidence of Midwestern's growth potential. Thus, while we believe that the staff prediction of a future plant growth rate of 7 percent is not unrealistic, we shall, for the purpose of our decision, use the much more conservative growth rate for Midwestern of 1.5 percent on an average annual basis.

The Examiner, in ruling that Midwestern should use liberalized depreciation in computing its tax expense for ratemaking purposes beginning January 1, 1966, based his tax saving on the average of what he concluded Midwestern will experience in plant growth and depreciation deductions for the five-year period 1966–1970 following the resumption of liberalized depreciation. The five-year average was predicated, in turn, on Midwestern's recently certificated additional sales authorizations and certain pending applications[35] and an assumed minimal future average annual growth rate of 1.5 percent. We shall here adjust the level of plant additions used by the Examiner for 1966 to eliminate consideration of the $14 million of facilities pending before us in the *Great Lakes* competitive proceeding, Docket No. CP66–110, *et al.*, as well as the non-depreciable share of its underground storage project.[36]

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[34] Opinion No. 320, 21 FPC 657. The Opinion states that the sales were to be made at a load factor of 83⅓ percent.

All in all there is little, if any, support for Midwestern's forecast of a no-growth situation. Considering the particular circumstances of this case, we believe that the Examiner's estimate of Midwestern's future plant growth, while low, is within the bounds of reasonableness and should be used by us in our decision herein. As hereafter indicated, some additional adjustment is required in his computations to reflect a change in the five-year future period.

Our disposal of Midwestern's contentions similarly dictates our action with respect to East Tennessee. East Tennessee does not seriously contest its growth status or its potential for future growth. In these circumstances our ruling in the *Alabama-Tennessee* proceeding is clearly controlling.

East Tennessee has had gross plant additions in each of the past ten years.[37] The company has stated that the requirements of its existing customers are increasing at an average of about 5 percent per year. In 1964 it spent $6,668,182 for construction of its Virginia extension;[38] an additional $1,397,793, including $378,818 for completion of the extension was booked in 1965.[39] During the five-year period 1961–1965, East Tennessee's average annual growth rate was 6.37 percent. For the 15-year period 1951–1965, the average growth was 4.96 percent. Recently, by Opinion No. 493,[40] East Tennessee was denied authorization to construct an estimated $4,160,000 worth of facilities intended to increase its peak day capacity by 22,141 Mcf per day. On May 17, 1966, East Tennessee filed a new application for authority to construct approximately $1,700,000 in pipeline facilities to increase its daily design capacity to 235,338 Mcf and its sales capacity by 47,224 Mcf per day. In addition to growth in gross plant, volumetric deliveries on the East Tennessee system have grown consistently. The deliveries on the East Tennessee system in 1956, the first full year of operation, were 17,371,000 Mcf. By 1965 the yearly volume had risen to 34,242,444, an average yearly increase of approximately 10 percent. Peak day sales on the system increased from 80,483 Mcf in 1956 to 166,106 Mcf in 1965, an average yearly increase of 10.6 percent.

In our opinion East Tennessee will experience a growth in its gross plant of not less than 4 percent per annum for the foreseeable future. While this growth rate is conservative compared to the growth history, we believe this figure may properly be used for present purposes.

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[35] Docket No. CP66–172, application filed 12/2/65, additional 25,000 Mcf/d interruptible on Northern System, certificate issued 3/25/66, 35 FPC 416; Docket No. CP63–149, certificate issued 7/27/64, 32 FPC 369, additional 25,000 Mcf/d contract demand on Southern System; Docket No. CP66–15, certificate issued 11/29/65, 34 FPC 1379, additional 20,000 Mcf/d temporary winter service on Southern System. No additional facilities were added for these expansions.

[36] Midwestern's witness testified that the depreciable portion of these additions would amount to $3,887,000.

[37] See Examiner's decision, *supra*, p. 556.

[38] *East Tennessee Natural Gas Co.*, Opinion No. 435, 32 FPC 158.

[39] 1965 Annual Report, FPC Form No. 2. Part of the $1,397,793 is attributed in the Annual Report to "land and land rights." To the extent land is involved, it would not constitute a depreciable asset. Our inclusion of the total figure is more than offset by the general conservativeness of our computations with regard to East Tennessee as to both the anticipated future growth and the minimal adjustment effected for 1954–1963 plant additions (Appendix C).

[40] *Transcontinental Gas Pipe Line Corp., et al.*, Docket No. CP64–270, *et al.*, issued June 8, 1966, 35 FPC 917.

CONCLUSION

Midwestern and East Tennessee argue that their managerial decision to revert to straight-line depreciation was a bona fide evaluation of the impact of our decision in the *Alabama-Tennessee* proceeding. They contend that their original election to use liberalized depreciation was made in reliance on the Commission's normalization policy then in effect and that the wholly changed conditions resulting from the flow-through requirements imposed by the *Alabama-Tennessee* proceeding adversely threatened the company's financial integrity. In our *Alabama-Tennessee* decision, we took full cognizance of each company's right to reevaluate their decision to utilize liberalized depreciation in the light of our holdings. Indeed that decision was, by its terms, applicable only to the Alabama-Tennessee company. It constituted merely a "proposed decision" with respect to those other pipeline companies wherein the Commission had reserved the question of the proper treatment of liberalized depreciation in the company's allowance for Federal income taxes in the cost-of-service used for prescribing future rates. Of course, a substantial impact of the decision upon the other regulated companies subject to the Commission's jurisdiction was recognized and taken into consideration. We made clear that we would not impose a flow-through requirement in those circumstances wherein refusal to normalize tax deferrals might well compel future customers to subsidize present ones, or shift to jurisdictional customers a tax burden properly charged to nonjurisdictional customers. Both Midwestern and East Tennessee, rather than presenting evidence to this Commission defending their entitlement to utilize liberalized depreciation with normalization rather than flow-through for ratemaking purposes, reverted to straight-line depreciation. This was the one method certain to result in a maximum Federal tax cost to themselves and maximum rates to their customers.

The primary argument by Midwestern and East Tennessee in support of their decision against the continued use of liberalized depreciation to reduce their tax liabilities is that their standing will be injured if the tax reductions available to them are taken without any protection from the possibility of an increased tax liability should their future investment outlays decline below the present levels.[41] It is to guard them against this future possibility that, they say, their present consumers should pay increased taxes, *i.e.*, higher rates.

As we have seen, there is little likelihood that either Midwestern or East Tennessee will reach a situation in the proximate future where the amount owed the Federal government under liberalized depreciation tax accounting will exceed the amount due under straight-line depreciation. Though the possibility exists, it is, at best, remote. The increased rates attributable to their decisions to drop, or not to use, liberalized depreciation, however, are not remote; they are a fact. The rates being collected today are higher than they would be under liberalized depreciation. For Midwestern and East Tennessee to argue that their present customers should be required to pay higher rates than would be required under liberalized depreciation in order that they, the companies, will be relieved of the *uncertain* burden that might develop from the unlikely occurrence that the dollar value of their gross gas plant will not at least remain stable is strikingly unconvincing. The chance that the investment in utility property will decline in the years ahead, either for the industry as a whole or for Midwestern and East Tennessee alone, can be rated, realistically, as not more than a minimum contingency.

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[41] East Tennessee has an accumulated balance of $234,000 in Account No. 282, which is being held pending disposition of the Docket No. R–264 rulemaking proceeding. (See footnote 14). As observed earlier (footnote 13), Midwestern's accumulated reserve was refunded in 1964 under its settlement.

In its exceptions to the Examiner's findings regarding the facts underlying its reasons for changing to straight-line depreciation, Midwestern makes the point that it was influenced in its decision by its conclusion that liberalized depreciation with flow-through would impose a heavy financial burden on its future customers "for the reason that flow-through would borrow tax deductions from the future to lower today's rates." We find the argument lacks merit primarily for the reason that it evidences a concern for customers who will be burdened only if the most adverse possibilities are realized, rather than for the present users who, if the policy not to use liberalized depreciation is validated, are now being forced to bear the burden of management's decision—a burden which, under the law, it is not at all certain that any customer, present or future, will be called upon to bear. "The Commission must, of course, concern itself with the possibility of having misread the future. * * * But we should expect agency policy to be sufficiently flexible to attempt to change with changing times. Sufficient unto the day is the evil thereof." [43]

In our opinion, staff's estimate of a growth rate approximating 7 percent annually for Midwestern is not wholly unrealistic. However, for our purposes we have assumed a conservative growth of only 1.5 percent per year. Although Midwestern's witness recanted this estimate, we believe the prediction is reasonable. Evidence submitted by staff shows that while Midwestern may experience some few years of increased taxes over the normal plant life cycle, the net effect will be of a substantial tax reduction. Furthermore, if Midwestern or East Tennessee really felt that the companies would be harmed by flow-through, they had the option at all times of coming to the Commission, proving their impairment, and requesting permission for continued normalization. The fact that they did not do so and, instead, chose to drop liberalized depreciation, indicates an uncertainty in their ability to sustain the necessary burden of proof.

The directors of Midwestern and East Tennessee reached a decision that liberalized depreciation with flow-through as required by our Opinion No. 417 was not in the best interest of their companies. Whether sufficient consideration was given to the effects of the changeover, particularly in Midwestern's case where the decision came less than two weeks after the *Alabama-Tennessee* decision, need not concern us here. The pipelines and INGAA argue that the companies' actions do not constitute an abuse of discretion. For the reasons stated in this decision, and recognizing again the broad scope of managerial discretion which should be allowed the companies in the conduct of their affairs, we conclude that the actions of Midwestern and East Tennessee do, in fact, exceed the ambit of managerial discretion. Accordingly, appropriate rate reductions will be ordered consistent with this Opinion, as reflected in the attached appendices.

The City of Chicago contends that the tax savings which Midwestern would have realized from the use of liberalized depreciation should be reflected in the company's rates effective as of the date of our Opinion No. 444 and order, *i.e.*, October 13, 1964. We agree with the Examiner that, with regard to East Tennessee, a prospective approach is proper in order to afford the company appropriate opportunity to conform, or reconform, its depreciation practice with the rate treatment here ordered and to obtain the necessary consent from the Commissioner of Internal Revenue to effect the reversion. Since the Internal Revenue Service has ruled that permission cannot be granted retroactively, and, therefore, the reversion can take effect only with the start of the 1967 tax year, and since the issue in this proceeding has not previously been decided by us, we believe it is more equitable that the use of the liberalized method in the computation of East Tennessee's tax costs for ratemaking purposes should likewise be required as of January 1, 1967. Although the issue was reserved in the original rate case, the prospective application of our decision is consistent with the general nature of rate reductions ordered under Section 5(a) of the Act.

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[43] *Alabama-Tennessee Natural Gas Co. v. F.P.C., supra,* 359 F. 2d at p. 339.

However, as the City of Chicago points out, Midwestern has voluntarily established the effective date for the results of the present proceeding in its settlement agreement resolving the various issues in Opinion No. 444. The history of the settlement negotiations illustrates that the setting of the effective date of the present proceedings was the essential *quid pro quo* demanded by Chicago and accepted by Midwestern, the Commission staff and other parties as Chicago's condition for acceptance of the terms of the settlement proposal.

The settlement itself is unusual in that it specifically amends Commission Opinion No. 444. Midwestern submitted its proposal on November 12, 1964, together with its petition for rehearing of Opinion No. 444. Basically, Midwestern proposed to accept the ratemaking principles of Opinion No. 444 in return for the dismissal of any further proceedings on the reserved issue regarding the appropriate rate treatment of liberalized depreciation. It was the subject of intensive discussions by the staff, Midwestern and Midwestern's customers. On December 14, 1964, Midwestern and staff arrived at a modified settlement agreement. The principal difference between Midwestern's original proposal and the modification was an agreement by Midwestern to flow-through all refunds and rate reductions received from TGT. Staff and all customers with the exception of Chicago agreed. On December 19 Chicago filed a telegraphic response indicating that:

> City of Chicago will consent to settlement proposal as modified except for the proposal to dismiss further proceedings concerning liberalized depreciation provided by ordering paragraph D of Opinion Number 444 and determination of refund to customers accruing from flow-back of accumulated deferred taxes—resolution of the issue of whether or not Midwestern may arbitrarily increase its tax expenses by refusing to take advantage of all tax deductions to which it is legally entitled is of cardinal importance to City of Chicago—A Commission determination on this issue in accordance with position of City would result in a substantial annual reduction in cost of gas to Midwestern's customers—

Thereafter, a conference was held among representatives of the City of Chicago, Midwestern and the Commission staff, at which the terms of settlement of the proceedings were agreed to. Subparagraph (6) of the settlement agreement provides as follows:

> (6) The question remanded to the examiner for hearing by ordering paragraph (D) of Opinion No. 444 shall proceed to hearing in accordance with the procedures to be prescribed either by the Commission or the Presiding Examiner. The adjustment, if any, to Midwestern's rates to reflect the Commission's final disposition of this issue, as referred to in said paragraph (D), *shall be effective as of October 13, 1964*. All parties reserve whatever rights they may have to seek review of any final Commission order on this issue. (32 FPC 1549, emphasis added)

Significantly, paragraph (8) of the settlement agreement expressly declares the intent of the terms of the agreement to modify Opinion No. 444: "Except as modified in the above seven paragraphs, Opinion No. 444 remains final and binding."

On its face there can be little dispute but that the settlement agreement approved by the Commission expressly modified the provisions of Opinion No. 444 which had provided that the resolution of the liberalized depreciation issue should have prospective effect only. It is interesting to note that Midwestern's counsel originally so interpreted it.

In the course of the hearings in the present proceeding, staff and the City of Chicago, on July 13, 1965, moved to postpone the hearings on the deferred issue until an appropriate date subsequent to final affirmance of the Commission's Opinion No. 417 in the *Alabama-Tennessee* proceeding. At pages 24 and 25 of the record certified to the Commission by the Examiner relating to staff and the City's motion, Counsel for Midwestern advised the Examiner as follows:

> As was mentioned earlier under the provisions of the Commission's order of December 3 [sic—30], 1964, in this proceeding, the adjustments, if any, in Midwestern's rates to reflect the Commission's final disposition of the reserved issue in this hearing shall become effective as of October 13, 1964, which is, of course, last October. So that we are talking about a retroactive rate effect, if any is to be given on this issue, and not one that would be prospective only.

In view of the expressed terms of the settlement agreement, which agreement was expressly accepted and approved by this Commission, we conclude that, absent a finding that the agreement is contrary to the public interest and unjust and unreasonable under the Natural Gas Act, that the Commission has no discretion but to require Midwestern to recompute its rates from October 13, 1964.[43] Accordingly, Midwestern, within 60 days from the issuance of this Opinion and order, shall file with the Commission a report reflecting the savings attributable to the use of liberalized depreciation in conformity with our findings herein. Specifically, the cost-of-service approved in Opinion No. 444, as modified and amended, shall be adjusted to reflect the benefits attributable to liberalized depreciation on an averaged basis of the benefits resulting from its actual gross plant additions for 1964, 1965 and 1966, and an assumed 1.5 percent annual gross plant growth for the years 1967 and 1968. The resulting differences shall be held in escrow by Midwestern pending further order of this Commission as to its equitable distribution.

The Commission further finds:

(1) Midwestern and East Tennessee are each a "natural-gas company" subject to the provisions of the Natural Gas Act, and the sales of natural gas for resale which are the subject of this Opinion and order are sales of natural gas in interstate commerce and are subject to the jurisdiction of this Commission.

(2) The use of liberalized depreciation, under Section 167 of the Internal Revenue Code, results in a permanent reduction of taxes payable to the Treasury Department by natural-gas pipelines which maintain either a growing or stable plant.

(3) In enacting the Internal Revenue Act of 1954, as amended, Congress did not attempt to prescribe the manner in which this Commission should reflect such tax benefits in rates established under the Natural Gas Act.

(4) Rate flow-through of the tax savings occasioned by the use of liberalized depreciation will effectively and substantially promote expanded plant investment by regulated companies, including Midwestern and East Tennessee, and

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[43] *Texas Eastern Transmission Corporation* v. *Federal Power Commission,* 306 F. 2d 345.

will best implement the fundamental objective of Section 167 of the Internal Revenue Code, to benefit the national economy by stimulating plant modernization and expansion.

(5) There is no present factual justification for basing the Federal income tax allowances for natural gas companies which maintain either a growing or stable plant on straight-line depreciation tax deductions when liberalized depreciation tax savings are available to such companies, without any genuine detriment or material risk.

(6) Midwestern will maintain a growing plant for the foreseeable future in an amount approximately equal to that projected in Appendix A.

(7) The proper tax depreciation deduction to be used in determining Midwestern's just and reasonable rates in Docket Nos. RP61-19 and RP62-7 (reopened) is $3,864,510.

(8) Midwestern should be required to file substitute tariff sheets, subject to the approval of the Commission, reflecting a reduction in its cost-of-service of $546,960 and containing the rates herein found to be just and reasonable as set forth in Appendix B; such rates to be effective beginning January 1, 1967, and to continue in effect until changed by further order of the Commission. Pursuant to its express settlement obligation Midwestern should also be required to make refunds reflecting the appropriate liberalized depreciation tax deductions for the period from October 13, 1964 to January 1, 1967.

(9) Except as otherwise decided in this Opinion, the rates set out in Appendix B should continue to be subject to all the applicable terms and conditions contained in Opinion Nos. 444 and 477, and the Order Approving Proposed Settlement issued December 30, 1964, 32 FPC 1548.

(10) East Tennessee will maintain a growing plant for the foreseeable future in an amount approximately equal to that projected in Appendix C.

(11) East Tennessee should be required to file substitute tariff sheets, subject to the approval of the Commission, reflecting a reduction in its cost-of-service of $264,185 and containing the rates herein found to be just and reasonable as set forth in Appendix D; such rates to be effective beginning January 1, 1967, and to continue in effect until changed by further order of the Commission.

(12) Except as otherwise decided in this Opinion, the rates set out in Appendix D should continue to be subject to all the applicable terms and conditions contained in Opinion No. 488.

(13) The exceptions to the Examiners' decisions, except as granted herein, should be denied.

(14) The Examiners' decisions, to the extent consistent herewith, should be adopted as part of this Opinion and order.

The Commission orders:

(A) Within 45 days from the date of issuance of this Opinion and order, Midwestern and East Tennessee shall file substitute tariff sheets, effective as of January 1, 1967, and satisfactory to the Commission, containing the rates herein found to be just and reasonable as set forth in Appendices B and D, respectively, attached hereto.

(B) Midwestern shall, within 60 days from the date of issuance of this Opinion and order, file a report showing the refunds due its jurisdictional customers which are attributable to liberalized depreciation tax savings during the period from October 13, 1964 to January 1, 1967. Copies of the report shall be sent by Midwestern to all its jurisdictional customers. Midwestern shall take no action to effectuate making the refunds pending the further order of the Commission.

(C) Except as herein granted, the exceptions to the Examiners' decisions are hereby denied.

(D) The Examiners' decisions, to the extent consistent herewith, are hereby adopted as part of this Opinion and order.

Commissioners O'Connor and Bagge *dissenting*.

APPENDIX A

MIDWESTERN GAS TRANSMISSION COMPANY

Reduction in Revenue Requirements for the Period 1967–71 Due to Liberalized Depreciation Deductions for Tax Purposes (Double Declining Method) using 3.5 Percent Rate on Straight-Line Method

Depreciable Property Additions		1967	1968	1969	1970	1971
Year	Amount					
1965	$325,979	$20,471	$19,037	$17,701	$16,462	$15,321
1966	[1] 4,379,645	296,064	275,042	255,771	237,815	221,172
1967	1,393,319	48,766	94,188	87,500	81,370	75,657
1968	1,414,219		49,498	95,601	88,813	82,590
1969	1,435,432			50,240	97,035	90,145
1970	1,456,963				50,994	98,491
1971	1,478,817					51,759
Liberalized Depreciation Tax Deduction		365,301	437,765	506,813	572,489	635,135
Straight Line Tax Depreciation		189,080	238,212	288,081	338,698	390,073
Excess Liberalized over Straight Line		176,221	199,553	218,732	233,791	245,062
Adjustment for 1959-64 additions		882,477	611,883	360,232	126,196	(91,459)
Adjusted excess Liberalized over Straight Line		1,058,698	811,436	578,964	359,987	153,603
Reduction in Revenue Requirements Related to Excess Liberalized Depreciation		977,263	749,020	534,430	332,297	141,788

Year	Excess Liberalized	Reduction in Revenue Requirements
1967	$1,058,698	$977,263
1968	811,436	749,020
1969	578,964	534,430
1970	359,987	332,297
1971	153,603	141,788
Five year totals	2,962,688	2,734,798
Annual Average	592,538	546,960

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[1] In addition to the $3,887,000 depreciable portion of the storage field project, we have included an amount of $492,645 which is the annual average of Midwestern's plant additions during the years 1961–1965.

APPENDIX A—continued

Unit Rate Reduction Due to Liberalized Depreciation Tax Deductions

	Dollars	Percent	
Net Plant per Settlement Cost of Service (C/S):			
Northern System	42,677,396	50.6736	
Southern System	41,533,059	49.3264	
Total	84,200,455	100.0000	
Reduction to:			
Northern System C/S $546,960 x 50.6736% =	277,164		
Southern System C/S $546,960 x 49.3264% =	269,796		
Total	546,960		
	Total Company	Northern System	Southern System
Settlement C/S	66,985,223	$24,401,313	$42,583,910
Average Annual Reduction in Revenue Requirements (1967–1971)	546,960	277,164	269,796
Adjusted C/S	66,438,263	24,124,149	$42,314,114
	Total	Demand	Commodity
Determination of Rate Reduction:			
Northern System	277,164	$138,582	$138,582
Billing Determinants		2,339,782	60,527,841
Unit Rate Reduction		$0.06	$0.23
Southern System	269,796	$269,796	
Billing Determinants		4,800,000	
Unit Rate Reduction		$0.06	

APPENDIX B

MIDWESTERN GAS TRANSMISSION COMPANY

Rates Effective 1-1-67 and Revenues Resulting Therefrom

Rate Schedules	Billing Determinants		Rates		Revenues
	Demand	Commodity	Demand	Commodity	
Northern System:					
SR-2	20,364	247,767		[1] 56.58¢	$140,187
CR-2	51,058	750,470	$3.88	24.69¢	383,396
CD-2	1,896,000	53,443,500	3.88	24.69¢	20,551,680
I-2		290,856		24.69¢	71,812
CRL-2	372,360	5,795,248	4.13	24.69¢	2,968,694
Total Northern System	2,339,782	60,527,841			24,115,769
Southern System:					
CDX-1	3,600,000	95,569,500	2.97	22.0¢	31,717,290
CD-1	1,200,000	31,983,000	2.97	22.0¢	10,600,260
SR-1				[2] 46.41	
SI-1				[3] 26.88	
Total Southern System	4,800,000	127,552,500			42,317,550
Total					66,433,319

[1] Reflects CD-2 rate level at 40% load factor.
[2] Reflects CD-1 rate level at 40% load factor.
[3] Reflects CD-1 rate level at 200% load factor.

APPENDIX C

EAST TENNESSEE NATURAL GAS COMPANY

Annual Reduction in Revenue Requirements for Tax Period 1967–71 Due to Liberalized Depreciation Deduction for Tax Purposes (Double Declining Method) Using 3.5 Percent Rate on Straight-Line Method

Property Additions		1967	1968	Liberalized Depreciation Deductions		
Year	Amount			1969	1970	1971
1965*	$6,668,182	$403,712	$375,452	$349,170	$324,728	$301,997
	1,397,793	87,781	81,631	75,900	70,589	65,696
1966	1,623,130	109,724	101,933	94,791	88,136	81,968
1967	1,688,055	59,082	114,113	106,010	98,582	91,661
1968	1,755,578		61,445	118,677	110,250	102,526
1969	1,825,801			63,903	123,424	114,660
1970	1,898,833				66,459	128,361
1971	1,974,786					69,118
Liberalized Depreciation Deduction		660,299	734,574	808,451	882,168	955,987
Straight Line Depreciation		368,660	428,924	491,598	556,779	624,567
Excess Liberalized over Straight Line		291,639	305,650	316,853	325,389	331,420
Adjustment for 1954-63 additions		105,026	97,668	90,811	84,456	78,603
Adjusted Excess Liberalized over Straight Line		396,665	403,318	407,664	409,845	410,023
Reduction in Revenue Requirements Related to Excess Liberalized Depreciation (92.308)		366,154	372,295	376,306	378,320	378,484

*Additions of $6,668,182 were placed in service during October–December 1964. For purposes of this computation these additions are assumed to be 100% available for liberalized depreciation at January 1, 1965.

Summary

Year	Excess Liberalized over Straight Line Depreciation	Reduction in Revenue Requirements
1967	$396,665	$366,154
1968	403,318	372,295
1969	407,664	376,306
1970	409,845	378,320
1971	410,023	378,484
Five year totals	2,027,515	1,871,559
Annual Average	405,503	1,374,312

EAST TENNESSEE NATURAL GAS COMPANY

Unit Rate Reductions Due to Liberalized Depreciation Deductions

	Total	Demand	Commodity
Average Annual Reduction in Revenue Requirements (1967–1971)	$374,312	$187,156	$187,156
Jurisdictional Portion (Opinion No. 488, App. B) (percent)		78.618	62.540
Jurisdictional Reduction	$264,185	$147,138	$117,047
Unit Rate Reduction	$264,185÷37,174,882=0.7107¢		

Reduction by Rate Schedules
(Commodity Component)

G-1 & CR-1	1.42¢	SG-1	0.71¢
G-2 & CR-2	1.42¢	SG-2	0.71¢
CR-3 & CPR-3	1.42¢	I-1	
G-1 Development		I-2	

APPENDIX D

EAST TENNESSEE NATURAL GAS COMPANY

Rates Effective 1-1-67 and Revenues Resulting Therefrom

Rate Schedule	Billing Determinants		Rates		Revenues
	Demand	Commodity	Demand	Commodity	
G-1 & CR-1	576,313	10,759,216	$3.25	24.32¢	$4,489,658
G-2 & CR-2			3.50	26.82¢	
CR-3 & CPR-3	228,612	3,850,558	3.75	29.32¢	1,986,279
G-1 Development		98,556		80.0¢	78,845
SG-1		5,643,466		49.22¢	2,777,714
SG-2		2,311,868		53.42¢	1,235,000
I-1		9,740,790		No Change	3,054,577
I-2		2,233,145		No Change	770,208
Total	804,925	34,637,599			14,392,281

O'CONNOR, *Commissioner, dissenting:*

While joining in Commissioner Bagge's dissent, I also wish to reemphasize the views expressed in my dissent in *Alabama-Tennessee*[1] and add these comments.

The majority states candidly that it does not want to reargue the merits of *Alabama-Tennessee* in the present proceeding. Their position is readily understandable. However, the present case must be considered in context as the second in a line of judicious decisions, of which *Alabama-Tennessee* is the first.

In *Alabama-Tennessee* the majority made mandatory the flow-through of benefits as a result of liberalized depreciation and thereby reversed the Commission's past policy. Prior to that decision companies were encouraged to voluntarily choose liberalized depreciation for tax purposes and the benefits were shared by the ratepayers, and, to a lesser extent by the stockholders.[2] It is important to note, however, that under our Uniform System of Accounts the differences in tax accumulations between liberalized depreciation and straight-line depreciation were fully recorded in the accounts under our control so that the financial integrity of the company would be maintained and companies were precluded from making any distributions of dividends from these reserves.

Thus, as is the situation in the instant case, where a company's management finds the continued use of liberalized depreciation under the revised rules prescribed by the Commission in *Alabama-Tennessee* inimical to the company's financial integrity and endeavors to revert to straight-line depreciation, the majority will now preclude the exercise of what heretofore has been a managerial right. The next case which will inevitably follow as the third in this line of decisions will be a reconsideration of whether a company utilizing straight-line depreciation can be forced to institute liberalized depreciation. Heretofore, the Commission has answered this question in the negative[3] but I submit that the impetus of today's decision in combination with *Alabama-Tennessee* will lead to reconsideration and a resultant affirmative answer, thereby forcing liberalized depreciation on companies which have heretofore remained on straight-line. To prevent this and other inequities, it is imperative that *Alabama-Tennessee, Midwestern* and *East Tennessee* be reviewed in context of the unjudicious positions they represent and reversed.

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[1] *Alabama-Tennessee Natural Gas Company*, Opinion No. 417, issued February 3, 1964, 31 FPC 208; rehearing granted for further consideration 31 FPC 768; rehearing and stay denied, Opinion 417-A, 31 FPC 928.

[2] *Panhandle Eastern Pipe Line Company*, Opinion No. 269, 13 FPC 53, affirmed in *City of Detroit* v. *F.P.C.*, 230 F. 2d 810 (CADC-1955).

[3] *United Gas Pipe Line Company*, Opinion No. 428, 31 FPC 1180. *Wisconsin Michigan Power Company*, Opinion No. 432, 31 FPC 1445.

It is anomalous that the majority not only denies management the privilege of tax deferral but bars it the alternative of non-use of liberalized depreciation. This denial is inconsistent with the views of another Government agency also having broad jurisdiction over accounting matters, namely, the Securities and Exchange Commission which, except where regulatory directive is present, would require tax deferral accounting for the tax effects of liberalized depreciation. Furthermore, the American Institute of Certified Public Accountants (AICPA), responsible for ethical and professional standards in the accounting profession, has opposed the accounting for the tax effects of liberalized depreciation which the majority is presently forcing on utilities as not being in accordance with good accounting practice and permitted only where prescribed by regulatory commissions.[4]

A possible disadvantage of mandatory liberalized depreciation could be the forced distribution of what are frequently referred to as "tax free" dividends. By forcing a company to use liberalized depreciation for tax purposes, and allowing it to continue with straight-line depreciation for book purposes, differences between the two will necessarily result. Since book earnings are usually larger than tax earnings and since corporate dividends are ordinarily paid from book corporate surplus, dividends may exceed the accumulated undistributed earnings for income tax purposes. Consequently, dividends from corporate surplus may be in excess of the "tax surplus." Thus, for tax purposes, such dividends would not be a distribution of earnings but a return of capital, hence not subject to tax. To be sure, the effect would be greater on a young company than on one with a large accumulated surplus, and granted if projected over a long period of time, say 15 to 30 years, a leveling effect will take place to the extent pay back increases toward the end of the depreciation life of the property, but this will not effect the large investor who is not so interested in dividends as in capital gains which will have already accrued.

Furthermore, whether the reserves presently accumulated because of the difference between liberalized depreciation for tax purposes and straight-line depreciation for book purposes will ever be used for the purposes envisioned by the majority, may depend upon whether Congress elects to change the tax laws or tax rates in the future. The majority fails to take this into consideration.

When all elements of this problem are put properly into focus, it is evident that the surest way to prevent discrimination among various ratepayers, present and future, and to ensure the continuing financial integrity of all elements in the industry where a company chooses, or is forced by the regulatory authorities, to utilize liberalized depreciation for tax purposes is to follow the present procedures directed by our Uniform System of Accounts and provide for normalization of the tax expense over the lives of the property involved and the accumulation of the difference between taxes paid and taxes accrued in a deferred tax reserve upon which no rate of return would be allowed.[5] Such a procedure would be eminently more flexible than flow-through since the stockholders would not receive any extra gains and the ratepayers would pay according to the rates prescribed by the Code as being commensurate with services rendered.[6] Thus, the ratepayer would pay for what he received, not for what his forebearers received or his heirs might receive. Furthermore, it is quite likely that the improved financial integrity of the company under this procedure could lead to reduced rates for future capital requirements and, therefore, bring about lower utility rates to all ratepayers.

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[4] Accounting Research Bulletin No. 44 (Revised July 7, 1958, Committee on Accounting Procedure, AICPA. Also Accounting Service Release No. 85, SEC, F. 29 1960).

[5] In *Alabama-Tennessee* I endorsed a 1½% return on deferred tax reserves based upon the *Panhandle* philosophy (*Panhandle Eastern Pipe Line Co.* v. *F.P.C.*, 316 F. 2d 659 [CADC–1963] of encouraging companies to use liberalized depreciation. However, in view of subsequent events, I am now convinced that no rate of return should be allowed on these reserves.

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[6] Likewise such a procedure would not result in the inequities that have fallen the lot of Midwestern by forcing them to flow through the "benefits" of liberalized depreciation retroactively without recourse, and the administrative problem, which is now the Commission's, of having to determine when flow-through should be effective would be obviated.

[1] *Alabama-Tennessee Natural Gas Company*, Opinion No. 417, issued February 3, 1964,

BAGGE, *Commissioner, dissenting:*

This decision is wrong. It is bad law. It is far worse policy. It is a dangerous precedent. Specifically, it is wrong for each of the following reasons:

(1) The decision is totally inconsistent with other decisions of this Commission following *Alabama-Tennessee;*[1]

(2) The decision violates a basic principle of public utility law governing the scope of managerial discretion;

(3) The decision contravenes national economic policy as it is reflected in tax policy;

(4) The decision does violence to fundamental concepts of fairness and equity;

(5) The decision contravenes existing regulatory policy of virtually all of the states which have dealt with the issue; and, finally,

(6) In addition to all of the foregoing considerations, when viewed simply as a matter of regulatory policy, the decision contravenes the public interest.

This decision strikes at the very heart of the regulatory confrontation with management expertise. In effectively and decisively carving out of the scope of managerial discretion this vital function of management, the majority in essence holds that a management which has the temerity to disagree with the Commission on the practical application of an abstract principle of corporate finance is to be adjudged guilty of an abuse of management discretion. This decision increases the scope of the uncertainties already existing in the natural gas industry. It concerns not only Midwestern and East Tennessee, but is of profound significance to the entire natural gas and electric power industries subject to the jurisdiction of this Commission. Indeed, its impact will be felt, albeit indirectly, by all of the Nation's utilities.

The Nation requires strong utilities. This is a legitimate objective of regulation. Regulatory policy should, as a consequence, be directed toward the achievement of this goal. The methodology employed in depreciating the Nation's vast utility assets is so vital to the financial integrity of its utilities and is so inherently a part of management expertise that I cannot, on the basis of speculation as to what the future holds, preempt this function.

My colleagues have stated, and I agree, that "it is not our purpose to re-argue the merits of *Alabama-Tennessee* for, in this proceeding, we consider, for the first time, an issue which was reserved in *Alabama-Tennessee* and which the Court of Appeals for the Fifth Circuit did not decide.[2]

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31 FPC 208; rehearing granted for further consideration 31 FPC 768; rehearing and stay denied, Opinion No. 417-A, 31 FPC 928.

[2] *Alabama-Tennessee Natural Gas Co.* v. *F.P.C.*, No. 21610, 359 F. 2d 318, (CA5) Petition for Cert. filed June 23, 1966, No. 286, Oct. term 1966.

In *Alabama-Tennessee*, the Commission stated:

> We do not have before us the question whether a utility which has not exercised its option to claim the tax benefits of liberalized depreciation should have its rates fixed on the basis of the availability of such higher depreciation deductions, and nothing in this opinion should be taken as an indication of our views on that question. (31 FPC at p. 210).

On appeal, the Fifth Circuit stated:

> Since the Commission has not yet ruled on Petitioner's (Alabama-Tennessee) application for conversion to straight-line tax depreciation, the effect of the proposed conversion is not a proper subject for review in this case. (p. 340).

In this Section 5(a) proceeding, the majority, having experienced the "industry-regulator impasse" called to the Commission's attention *by Commissioner O'Connor in his dissent in Alabama-Tennessee,*[3] orders Midwestern and East Tennessee to use liberalized depreciation for regulatory purposes although the companies have elected to exercise their statutory option to change to straight-line depreciation in the compilation of their Federal income tax. The majority is really finding that, to be effective, both liberalized depreciation and flow-through must be mandatory. Significantly, although the majority does not decide "* * * at least directly, how Midwestern and East Tennessee shall pay their income taxes * * *" leaving "* * * the companies free to choose their own method for filing their tax returns," the freedom is illusory because this decision effectively negates the element of management choice which has been expressly provided by the Congress.

Section 167 of the Internal Revenue Code provides that taxpayers have the statutory option to elect to use or not to use the liberalized depreciation provision for the purpose of computing Federal income taxes. The election determines a cost component in the cost of service, and the cost of service serves to determine the rate to be charged. Section 167(e)(1) of the Internal Revenue Code permits a taxpayer to change at any time from liberalized depreciation to the straight-line method. The converse is not true; once the taxpayer elects to go from liberalized to straight-line, government consent is necessary before the taxpayer may revert. Since the Internal Revenue Code grants management this option, I conclude that management has both the prerogative and the correlative responsibility of exercising that option in the best interests of the business and its customers.

Such a decision cannot lawfully be overturned by a regulatory agency absent an abuse of management discretion. The election to adopt liberalized or straight-line depreciation involves risks and uncertainties which are best known to those with an intimate knowledge of a particular company. These are individual management decisions to be made on the basis of the circumstances of each individual case. I cannot, on the basis of mere disagreement, hand to consumers a short range benefit[4] at the expense of creating great uncertainty within the regulated industries. This is especially true in light of the fact that this will be still another regulatory about-face similar to the one for which the Commission was so severely chastised by the Fifth Circuit in *Alabama-Tennessee.*

Subsequent to *Alabama-Tennessee*, the setting of rates based on hypothetical liberalized depreciation was expressly rejected by this Commission in *United*

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[3] At page 237.

[4] It is undisputed that the benefits of flow-through are only going to the consumer for a short period, usually from seven to twelve years. After that, consumers will get no net return benefit from flow-through.

Gas Pipe Line Company,[5] and *Wisconsin Michigan Power Company*.[6] In *Wisconsin Michigan*, the Commission found that its acceptance of the company's use of straight-line depreciation was not inconsistent with the obligations of a regulated company to operate with all reasonable economies. There the Commission stated:

> We have heretofore taken the position that, if a utility chooses to utilize a liberalized depreciation option permitted by the tax laws, the benefits thereof must be flowed through to ratepayers within the operating year. Intervenors would have us go one step further and set the rates of a regulated utility as if it voluntarily used liberalized depreciation (as well as guideline service lives), even though the utility in fact chose to employ straight-line depreciation, as *Wis-Mich* has done. Intervenors' position proceeds from the proposition that public utilities are obligated to operate with all reasonable economies, including the lowest reasonable tax burden, and to pass these economies along to the ratepayer.
>
> While there can be no dispute with the principle that utilities should operate with maximum efficiency, we do not believe this rule leads to the conclusion urged by the intervenors. On this record it is clear that this company has never used liberalized depreciation and has chosen to apply straight-line depreciation to its property as a matter of business judgment. Its officers firmly believe this to be the wisest course in the long-range interests of the company and its customers. The case that has been made for requiring the company to use (or for assuming it has used) guideline service lives is not persuasive, either on the facts of this case or as a general principle, and we could not accept the intervenors' position in this regard. As to liberalized depreciation, the tax laws give management the option not to take liberalized depreciation and we do not believe that on this record we should in effect deprive the company of its option under the tax law.

In so holding, the Commission made it abundantly clear that the election to use, or not to use, liberalized depreciation is a matter of business judgment to be left to the discretion of management in each individual case. There is no rational justification either in logic or in law for establishing different criteria to a management decision to discontinue its use.

Midwestern and East Tennessee had originally elected to use liberalized depreciation in reliance on the Commission's normalization policy. When that policy was reversed in *Alabama-Tennessee*, the companies' managements elected to use straight-line depreciation. In each case management concluded that the continued use of liberalized depreciation under the wholly changed conditions would be unsound financial and business policy because of the substantial adverse impact on the company's financial integrity. Viewing the change in policy enunciated in *Alabama-Tennessee* in connection with the policy set forth in *United* and *Wisconsin Michigan* precludes a finding that Midwestern and East Tennessee abused their discretion in reverting to a straight-line method of tax depreciation for elemental fairness requires that the companies be entitled to re-evaluate their tax depreciation methods in the light of changes in regulatory policy.

Significantly, in the Midwestern case there is no issue regarding the treatment of the accumulated reserve for deferred taxes. In its December, 1964 rate order,[7] the Commission approved an actual tax treatment of liberalized depreciation and directed Midwestern to refund to its customers the accumulated reserve for deferred taxes of $3,569,600. This action precluded the application of these deferrals to offset higher future taxes for which the deferrals had been earmarked. This action was an open invitation for Midwestern to adopt straight-line depreciation for the remaining undepreciated tax base. Under these circumstances, Midwestern's adoption of straight-line depreciation could be viewed as a logical managerial response to protect the best interests of the company and its customers. The question of whether liberalized depreciation is suitable or necessary for all utilities has never been conclusively answered. Congress, however, gave the option to the taxpayer (management) to choose the method best suited to his particular circumstances.

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[5] *United Gas Pipe Line Co.*, Opinion No. 428, 31 FPC 1180 (1964).

[6] *Wisconsin Michigan Power Co.*, Opinion No. 432, 31 FPC 1445 (1964).

[7] 32 FPC 1548.

The various state courts and virtually all of the state commissions who have considered this issue have concluded that the decision to use, or not to use, liberalized depreciation for tax purposes lies securely within the discretion of management. For example, the California and New York Commissions, who have adopted flow-through, have not attempted to compel any utility to take liberalized depreciation against the better judgment of its management.

Re: Tax Treatment of Accelerated Depreciation, 33 P.U.R. 3d 209, 215 (Cal. P.U.C. 1960).

> As a general proposition, it is a matter to be determined in the first instance by the management of a public utility as to whether or not liberalized depreciation will be availed of or whether straight-line depreciation will be used.

Re: *Niagara Mohawk Power Corp.*, 28 P.U.R. 3d 17, 194 (N.Y. P.S.C. 1959).

> * * * We think that the selection of the method of depreciation for tax reporting purposes is peculiarly a managerial determination * * *

In the following cases, utilities which had been employing accelerated depreciation reverted to straight-line depreciation after state commissions adopted the flow-through method. In each of these cases, the higher straight-line taxes were allowed in subsequent rate cases on the ground that the election was a matter of managerial discretion: *City of Pittsburgh v. Pennsylvania Pub. Util. Comm'n.*, 144 A. 2d 648, 25 P.U.R. 3d 273 (1958); Re: *Southern Cal. Water Co.*, 57 Cal. P.U.C. 677 (1960); Re: *Southern Cal. Gas Co.*, 35 P.U.R. 3d 300 (1960); Re: *Southern Counties Gas Co.*, 58 Cal. P.U.C. 27 (1960); Re: *San Diego Gas & Elec. Co.*, 39 P.U.R. 3d 417 (1961); Re: *Pacific Lighting Gas Supply Co.*, 59 Cal. P.U.C. 610 (1962); Re: *Housatonic Pub. Ser. Co.*, 22 P.U.R. 3d 1 (1958); Re: *Raytown Water Co.*, 22 P.U.R. 3d 556 (1958); Re: *Piedmont Natural Gas Co.*, 34 P.U.R. 3d 1 (1960); *Pennsylvania Pub. Serv. Comm'n. v. Pennsylvania Power Co.*, 33 P.U.R. 3d 177 (1960); Re: *Cumberland & Allegheny Gas Co.*, 28 P.U.R. 3d 93 (1959).

In the following cases management's right to elect not to adopt accelerated depreciation was sustained against attacks by advocates of mandatory flow-through: Re: *New England Tel. & Tel. Co.*, 23 P.U.R. 3d 510 (1958); Re: *The Mountain States Tel. & Tel. Co.*, 31 P.U.R. 3d 417 (1960); Re: *New England Tel. & Tel. Co.*, 21 P.U.R. 3d 195 (1957); *Pennsylvania Pub. Util. Comm'n. v. Pennsylvania Gas Co.*, CCH Util. L. Rep.—State para. 17, 554 (1957); *Pennsylvania Pub. Util. Comm'n. v. Peoples Natural Gas Co.*, 31 P.U.R. 3d 283 (1959).

All of these decisions are consistent with the general rule of utility law enjoining commission interference with managerial discretion as stated in *State of Missouri, ex rel. Southwestern Bell Tel. Co. v. Public Service Commission of Missouri*, 262 U.S. 276, 289 (1923):

> * * * It must never be forgotten that while the state may regulate with a view to enforcing reasonable rates and charges, it is not the owner of the property of public utility companies and is not clothed with the general power of management incident to ownership. The applicable general rule is well

> expressed in *State Public Utilities Commission, ex rel. Springfield v. Springfield Gas and Electric Company*, 291 Ill. 209, 234. "The Commission is not the financial manager of the corporation and it is not empowered to substitute its judgment for that of the directors of the corporation; nor can it ignore items charged by the utility as operating expenses unless there is an abuse of discretion in that regard by the corporate officers."

The majority, relying on *Acker v. United States*, 298 U.S. 426 (1935) state:

> An elementary proposition of utility law and utility regulation universally recognized, is that public utilities, in the interest of their customers as well as in their own interest, should be permitted to charge rates which are compensatory of the full cost incurred by alert, efficient, and responsible management. It is equally elementary that customers should not be required to pay more than this cost.

While no one can disagree with this, I do not see how such a statement can preclude the position I am taking here. Furthermore, the majority's reliance on *Acker* is misplaced. The problem to which the Court's attention is directed in *Acker* relates to the reasonableness of business expenditures. It does not relate to taxes computed in accordance with unqualified rights provided by the Congress. Therefore, *Southwestern Bell* is still the law of the land and must be followed by this Commission.

Although I have disavowed any intention to re-argue the merits of *Alabama-Tennessee*, I am compelled to point out another unwarranted hypothesis of the majority which is arguably within the ambit of that case. If the majority theory is to be validated, it must be assumed, for the purposes of this case, that the companies will have a significantly rising and continuous growth in their property accounts. The concept here of stabilization or continued growth requires projections for 60 years or more by an absolute prediction of a 30-year life and 100% replacement for existing facilities. These projections are in conflict with the companies' projections of the limited growth associated with the specific areas served. For a pipeline system, dependent on continuous availability of low cost natural gas, projection of such low cost gas supply beyond thirty years is extremely tenuous. This elementary fact is reflected in the realities of the financial market. Debt capital is generally available in this industry for terms not exceeding 20 years. While there are no doubt many factors which combine to dictate this 20-year limitation, certainly one important factor is that the interstate transmission segment of the natural gas industry is based upon a wasting asset. Another factor is that this is an area in which conditions could be drastically changed due to technological advances either within the gas industry or within competing forms of energy.

There are a number of factors which could affect the rate of future property additions. Among these are the degree of saturation of the gas market, economic conditions of the area served, available gas reserves, technological changes, the availability of competitive sources of energy, increases or decreases in the price level, changes in the structure of the energy market, and opportunities to expand into new and undeveloped markets. The question here is whether this Commission has a sufficient basis to make the assumption which have been used by the majority to justify mandatory flow-through of liberalized depreciation. I am forced to conclude that the conjecture of continuous growth in the property accounts of the companies involved for the period of time involved is so speculative that it does not provide a rational basis for the regulatory policy advanced herein.

In an effort to justify their opinion, the majority seizes upon the alleged competitive advantages accruing from mandatory flow-through. As I see it, there are none. In the first place, if all utilities were subject to mandatory flow-through, there would be no competitive advantage to anyone of them with respect to the others. In the second place, the argument assumes that utility rates are not otherwise affected by competitive forces. This is contrary to fact. Competitive forces do operate in the utility field. Natural gas competes with electricity, coal and oil. Gas and electric companies are competing as they never have before for markets, including industrial processing, air conditioning, and space heating. Coal has already displaced sales of interruptible boiler fuel gas in some areas. Competition exists within the natural gas industry between interstate pipeline companies in most of the major metropolitan areas of the Nation. These forces, and not mandatory flow-through are serving to promote and will continue to promote competition within the industries which we regulate.

The majority assumes that if they have guessed wrong by ordering mandatory flow-through, a remedy will always exist in the form of future rate increases. But it is the existence of these very competitive forces operative within the energy market, which the majority refuses to acknowledge exist, which may well frustrate the effectuation of such a remedy. Hence, it is the grossest error to assume that if regulation permits increased rates to provide for additional Federal income taxes in future years that such increased charges will unquestionably be collected from the consumers. It is one thing to authorize a rate calculated to recover costs. It is another thing to guarantee that the revenues will be forthcoming. It simply cannot be assumed that, irrespective of the state of the economy or of technology, rates can always be raised to produce additional revenues at any time in the future when such revenues are needed. Regulation in this regard is impotent. Only the impersonal forces of the market will determine whether a higher rate will generate additional revenue.

The history of public utility regulation is replete with examples of why the majority's theory is both unrealistic and impractical. It is precisely at the point when a company's growth pattern differs from that of its industry, or competing industries, that the forces of competition will not permit an upward rate adjustment even though it may be permissible under regulation. In our own generation we have witnessed two private utility industries virtually eliminated and many of the companies therein forced into bankruptcy, namely, the inter-urban transit industry and the urban transit industry. Witness the recent plight of the railroad industry, where the existence of competing modes of transportation has often meant that rate increases merely resulted in further loss of tonnage and revenue. Only a few decades ago, the prospects of the manufactured gas industry were bleak. It was saved only by the introduction of low-priced natural gas. In each case the obsolescence factor which caught up with the industry, and which had not been recognized in the then current depreciation practices, produced such financial degradation to many companies that they were no longer in a position to attract the capital necessary to maintain their competitive position in the changing technology of the times. Surely, these recent experiences must have some significance to the formulation of regulatory policy.

The interstate natural gas transmission industry is devoted entirely to the transmission of a depletable resource from production areas to consuming areas. The calculations of future requirements upon which the majority's decision is based cover requirements which may well be met by imported natural gas, imported liquified natural gas, gas manufactured from coal, lignite or oil shale, other future technological break-throughs, or by other competing fuels. It is probable that some natural gas transmission companies will be out of business in the future and that all of them will be forced by competition to expand into different areas of production. The electric industry, which is also affected by today's decision, has a more reliable and predictable future growth pattern largely because it is vertically integrated. Hence, changes in production and transmission patterns can be more readily and flexibly absorbed by the distribution section of the industry. Here, too, however, the approaching competitiveness of nuclear fuel or other exotic patterns of generation may have such a financial impact that only financially sound companies will be able to take advantage of the large capital requirements necessary to participate in these new concepts. In addition, the spectre of onsite generation could introduce strong competitive factors even into the local distribution of electricity and necessitate entirely different concepts of electric utility service with possible large obsolescence of present day generation, transmission and distribution patterns.

In the light of recent utility history and of these facts, the policy of consistently employing every devise and every theory which seems likely to bring but a few pennies of relief to the ultimate ratepayer is utterly repugnant to fairness and common sense.

Proponents of mandatory flow-through must make certain assumptions in concluding that there is no risk of increased future taxes. I do not say that these assumptions are categorically false, but I do say that this case gives no certainty to these assumptions. They must be guessed and cannot be proven.

I, unlike the majority, do not have so much faith in my "clairvoyance" that I can totally ignore the past and be content to speculate about a future which may be replete with major technological break-throughs in liquified natural gas, manufactured gas, solar cells, and other products and services which could change the very configuration of the industries which we regulate. It is one thing, once a company, with full knowledge of the facts, has decided to take the risks inherent in liberalized depreciation, to require it to flow the benefits through. It is quite another to force a company, against the informed judgment and expertise of its management, to incur these risks. It is long past time for us as regulators to recognize that our regulatory responsibilities extend beyond the short run protection of the consumer. The protection of the long range interests of the consumer is dependent upon the financial integrity of the public utilities which serve him. In this regard his interests are closely allied with those of the millions of people who have invested billions of dollars in public utilities, accepting a smaller return than would otherwise be possible because they seek greater security of investment. The investors deserve some protection too. The risk to both consumer and investor is too great, the stakes too high, to wave aside the very real danger they face in order to grant to only one of them what is, at best, a short-range benefit, and what may, in the long run, be no benefit at all.

The Examiners' decisions should be reversed, and the companies' reversion to straight-line depreciation should be approved.

INITIAL DECISION
OF THE PRESIDING EXAMINER UPON REMANDED QUESTION OF TAX DEPRECIATION

(Issued January 11, 1966)

LEVY, *Presiding Examiner:* This proceeding was initiated by the Commission's order of April 21, 1965, 33 FPC 835, providing for a hearing on the issue of the depreciation to be used as a deduction in computing the tax allowance in Midwestern Gas Transmission Company's (Midwestern) cost of service. The tax depreciation issue was remanded for further hearing in Opinion No. 444 issued October 13, 1964, 32 FPC 993, after a Section 5(a) proceeding initiated by the Commission to determine Midwestern's just and reasonable rates. A settlement of this rate proceeding was approved by the Commission on December

30, 1964, 32 FPC 1548, leaving the tax depreciation issue for resolution in this remanded proceeding and the unrelated rate design issue subsequently decided in the Commission's Opinion No. 477, issued September 28, 1965, 35 FPC 973.

Hearing was held in this reopened proceeding on July 13 to July 15, 1965, and September 8 to September 10, 1965. A motion at the opening of the hearing on July 13th by the City of Chicago for an indefinite postponement pending judicial review of the Commission's Opinion No. 417 in *Alabama-Tennessee** was denied.[1] Briefing was concluded on November 18, 1965, after an extension requested by Staff Counsel. Briefs were filed by Midwestern, Staff Counsel, the City of Chicago and the American Public Gas Association (APGA) and the Independent Natural Gas Association of America (INGAA). On December 8, 1965, Midwestern filed a motion to strike certain portions of the reply briefs or, alternatively, to receive their supplemental reply brief, attached to the motion to strike, and on December 21st, 1965, Staff Counsel filed a motion to file an answering reply brief if the supplemental reply brief of Midwestern is received.

The Prior Proceeding

As previously noted, this hearing on the tax depreciation issue grew out of a consolidated Section 5(a) rate proceeding initiated by the Commission involving cost of service issues with respect to Midwestern, and rate design issues with respect to Midwestern and Natural Gas Pipeline Company of America. All of these issues, except the tax issue, have been settled or decided by the Commission's Opinion No. 477, issued September 28, 1965, or its prior order of December 30, 1964 (32 FPC 1548).

Beginning in 1959, and continuing through the test period, the year ending June 30, 1962, Midwestern utilized liberalized depreciation in filing its tax returns. The Commission issued its decision, Opinion No. 417, in *Alabama-Tennessee Natural Gas Company* on February 3, 1964, (31 FPC 208), reversing its prior policy of normalization under which a pipeline company using liberalized depreciation was allowed to "normalize" or raise its tax cost for rate making purposes to the amount it would have paid if it had used straight line depreciation. The difference between the lower tax actually paid under accelerated depreciation and the higher "normalized" tax was accumulated in a deferred tax account as a reserve to be used to offset the higher tax payments contemplated in later years.

The Commission abandoned deferred tax accounting and determined in *Alabama-Tennessee* that the company must "flow-through" the advantages of the higher tax deductions to its customers by using the higher liberalized depreciation in computing its tax allowance for rate making purposes. The Commission concluded that expansion in the gas pipeline industry depended on lower rates and greater sales volumes rather than additional funds for plant investment. Consequently, the flow-through of tax savings in the form of lower rates is a more effective stimulus to the new investment which was the aim of Congress in enacting Section 167 of the Internal Revenue Code. The Commission noted that "Lower rates tend to generate a higher volume of sales and thus ultimately to require expansion of gas transmission facilities." (31 FPC 218)

The Presiding Examiner, relying on the Commission's *Alabama-Tennessee* decision, concluded in his initial decision, issued April 29, 1964, 32 FPC 1012, that Midwestern's federal income tax allowance should no longer be normalized, but should be calculated[2] on the basis of the lower actual tax liability reflecting the liberalized depreciation deduction which the company had been using in its tax returns. Midwestern strongly opposed flowing through the tax benefits to customers resulting from the use of liberalized depreciation and urged that a decision on the liberalized depreciation issue be deferred pending a decision by Midwestern as to whether it would continue to utilize liberalized depreciation.

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*Now pending on review in the Fifth Circuit Court of Appeals.

[1] Affirmed by Commission order dated August 12, 1965, 34 FPC 506.

[2] This resulted in a zero Federal Income Tax allowance (See Appendix 4).

The Presiding Examiner commented in pertinent part as follows:

> This Midwestern position assumes that if the company for reasons of its own were to elect to discontinue claiming a tax deduction which the Internal Revenue Code admittedly authorizes, it would be improper for the Commission to thereafter compute the company's income tax allowance as if it were in fact continuing to take the deduction. This assumption ignores the basic regulatory principle that a regulated public utility is required to utilize available cost-savings opportunities. *El Paso Natural Gas Co.* v. *F.P.C.*, 281 F. 2d 567, 573 (CA5–1960).
>
> However, it is unnecessary to decide that particular question here, since it is concluded that the controlling fact for the purpose of the instant decision is that Midwestern *did* utilize liberalized depreciation on its tax returns during the test period. It would be pure speculation to attempt to guess what course Midwestern might take with respect to this matter at some future date, when judicial review of Op. No. 417 is completed. It is interesting to note that Midwestern itself, while making the above argument, carefully avoids any prediction that it would necessarily discontinue using the liberalized depreciation deduction on its tax returns in the event of affirmance. (32 FPC 1064).

A few days later, however, on May 11, 1964, Midwestern's Board of Directors adopted a resolution authorizing and directing the utilization of straight-line depreciation in its federal income tax returns effective January 1, 1963. In its exceptions to the Examiner's initial decision, Midwestern advised the Commission that it had discontinued the use of liberalized depreciation and contended, therefore, that it was improper to compute its income tax allowance in fixing future rates as though it would continue to utilize liberalized depreciation. It argued that the Commission should not deny the use of straight-line depreciation for rate making purposes without affording Midwestern an opportunity to submit evidence demonstrating the reasons underlying the decision of its Board of Directors to change, *pendente lite*, the method of tax depreciation.

The Commission agreed to give Midwestern an opportunity to justify its discontinuance of liberalized depreciation, stating in pertinent part as follows: (Opinion No. 444, p. 996)

> The question as to the proper treatment of depreciation in computing taxes for rate-making purposes is one of the most important issues in this case, making a difference of close to $2 million in MGT's total cost of service. It is appropriate, before deciding this question, that MGT be given an opportunity to present evidence to show why it has changed to straight-line depreciation, how the use of liberalized depreciation in computing taxes for rate-making purposes might adversely affect its interests, the effect of its change to straight-line depreciation on the rates to be charged its customers *vis-a-vis* the Commission's determination in Opinion No. 417, the method to be used in applying accumulated deferred taxes against its increased tax costs and any other relevant facts. Other parties and staff should also be given an opportunity to present evidence and to cross-examine and be cross-examined on this issue. Accordingly, we shall remand this issue to the examiner for future hearing and an initial decision. Meantime, to avoid delay in ordering the reduction of MGT's rates with respect to other issues

> in this case, we shall proceed to fix MGT's rates by utilizing straight-line depreciation in determining its tax allowance. These rates shall be subject to further reduction prospectively to reflect the use of liberalized depreciation in the tax allowance should the Commission finally determine that the liberalized method is the appropriate one to be used.

Thereafter, Midwestern refunded to its jurisdictional customers the full amount of accumulated deferred taxes ($3,569,600) pursuant to the rate settlement approved by the Commission's order of December 30, 1964 (32 FPC 1548, 1549).

The basic issue, therefore, in this reopened proceeding is the proper tax depreciation deduction to be used in computing Midwestern's tax costs for rate-making purposes.

Midwestern's Position

Midwestern argues that its actual tax cost, based on the straight-line depreciation (3.5 percent annually) utilized by it since filing its federal income tax return for 1963, should be recognized in determining its cost of service and rates. It justifies the decision of its Board in May 1964, to discontinue liberalized tax depreciation (7 percent annually) as sound and proper, because of "the substantial adverse effect on the company and its financial integrity resulting from the flow-through rates threatened by the Examiner's decision of April 29, 1964," (Br. p. 19) and the advice of its management that it would be unsound financial and business policy to continue utilizing liberalized tax depreciation.

Specifically, Midwestern contends that the continuation of liberalized tax depreciation, after the flow-through rates recommended in the Examiner's decision of April 29, 1964, would adversely affect it by requiring an immediate rate increase of at least $1,000,000 per annum. Additionally, it would create a continuing problem of instability of rates and earnings which would require Midwestern to seek annual rate increases with attendant risks, jeopardize the company's financial integrity because of the uncertainty as to whether, for competitive reasons, it could charge or collect the increased future rates required to recover the higher future tax costs resulting from the annual decrease in tax depreciation. Finally, it would reduce Midwestern's ability to meet the coverage requirements of its first mortgage bond indenture, making it more difficult and costly to raise funds by the issuance of additional securities.

Midwestern and INGAA argue, therefore, that the decision to discontinue the use of liberalized tax depreciation, and to use straight-line tax depreciation, was a sound, proper and reasonable exercise of managerial judgment and discretion. Consequently, the argument continues, the federal income tax allowance to be included in Midwestern's cost of service for the purpose of determining its rates in this proceeding should be based on the 3.5 percent straight-line depreciation now actually being used by Midwestern in its tax return.

Midwestern relies on the regulatory principle that the initial determination of what is an appropriate cost saving is made by management and that, absent an abuse of managerial discretion, such judgment should not be disturbed. The Commission has not interfered with companies which have never used liberalized depreciation and, asserts Midwestern, there should be no difference in the regulatory rate treatment of a company, such as Midwestern, which changes from liberalized to straight-line depreciation.

Midwestern's position is supported by the testimony of its witnesses, N. Knowles Davis, Vice President of Tennessee Gas Transmission Company,[3] in charge of rate matters for Tennessee and Midwestern, W. D. Walser, Vice

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[3] Midwestern is controlled by Tennessee (see 32 FPC 993 at p. 1024), which owns approximately 88 percent of its outstanding common stock (Ex. R-1).

President of Midwestern, J. S. Brogdon, Jr. sales manager, and Fred Massey, Director of Tennessee and Midwestern's tax department. In opposition, Staff Counsel presented the testimony of William J. Powell, Chief, Division of Systems, FPC. The City of Chicago presented the testimony of Melwood W. Van Scoyoc who concluded that Midwestern should be required to reduce its rates $1,654,000 as of October 13, 1964.

Discussion

The present Commission's rejection of normalization in *Alabama-Tennessee*, cited *supra*, rested squarely upon its finding that the use of liberalized depreciation gives pipelines which maintain a growing or stable plant for the foreseeable future a permanent tax saving. Normalization, as authorized by the prior Commission (*El Paso Natural Gas Co.*, 22 FPC 260, aff'd. 281 F. 2d 567 (CA5–1960) cert. den. 366 U.S. 912 (1961)), was bottomed on the premise that the use of accelerated depreciation resulted in a tax deferral rather than a tax saving. Under normalization, the excess of the normalized tax allowance over the actual tax was charged to operating expense and credited to a reserve for deferred taxes. The actual tax, of course, was also charged to operating expense. Under the tax deferral thesis, the reserve for deferred taxes avoids giving present customers a windfall at the expense of future ratepayers or stockholders.

Midwestern's switch from liberalized to straight-line depreciation was a logical consequence of its position that the "use of liberalized depreciation will result in tax deferral, not a tax reduction or saving," (Br. p. 18) and the prospective elimination of its reserve for deferred taxes. Certainly, as argued by Midwestern, whether or not the use of liberalized depreciation for any given company will result in a tax saving or tax deferral is a question upon which there is, and can be, reasonable differences of opinion. Given Midwestern's position in favor of the theory of tax deferral, rather than tax saving, its action in switching from liberalized to straight-line depreciation, following the decision in *Alabama-Tennessee* and the Commission's rejection of normalization, represents a reasonable exercise of managerial discretion and judgment on the part of its officers and board. From the company point of view, the prospective deduction from the rate base of the accumulated reserve for deferred taxes, and the decision to refund to its customers the full amount of such reserve accumulated through the years, left Midwestern without any reserve to meet the higher future income taxes which its theory of tax deferral premised. Additionally, it deprived Midwestern of the advantages previously obtained from the use of liberalized depreciation. This is because flow-through of the tax benefits annually and the abandonment of the reserve for deferred taxes deprives the company not only of earnings on the amount of the tax reserve, but also of additional funds otherwise available to finance plant expansion, provide additional working capital, or any of the other benefits incident to the availability of the larger cash flow resulting from the creation of a reserve arising from the use of liberalized depreciation.

In *Alabama-Tennessee*, the Commission concluded that a regulated utility will never be required to pay higher income taxes because of its use of liberalized depreciation "unless its gross plant declines in dollar value as a result of lower demand or lower plant construction costs." It is Midwestern's position in this proceeding that its plant has declined and will continue to decline for the foreseeable future. Consequently, it was justified in changing to and continuing straight-line tax depreciation.

For the reasons hereinafter detailed, the Presiding Examiner finds it is premature to conclude, as does Midwestern, that it is in a period of permanent plant decline. Present indications suggest that Midwestern will maintain an expanding or stable plant for the foreseeable future. Moreover, if it resumes liberalized depreciation in 1966, its depreciation deduction will not be less than under straight-line depreciation.

Midwestern's decision to change to straight-line depreciation is justified, therefore, only if its premise of net plant decline for the reasonably foreseeable future is supported by the record. This is not the case. It is more probable than not that the company's plant will continue to grow, or at least remain stable. As noted by Witness Van Scoyoc: (Tr. 208)

> The argument or presumption of no growth for Midwestern is particularly frail. Midwestern, as an affiliate, is a part, or arm, of a pipeline system which has experienced phenomenal growth in pipeline as well as non-pipeline activities. There is no reason whatsoever to assume that Midwestern and the system of which it is a part will be precluded from sharing in the future growth of the natural gas pipeline industry. It is a virtual certainty that such a slow death could only occur if Midwestern's parent (its management, in other words), wills it. In view of the pending Applications for Midwestern's expansion it is hardly plausible to assume that such a death sentence has been decreed.

The switch to straight-line depreciation during the pendency of the rate proceeding, and the consequent increase in tax cost, conflict with Commission policy as set forth in *Alabama-Tennessee* to the effect that the tax saving resulting from the use of liberalized depreciation by a pipeline which maintains a growing or stable plant must be flowed through to its customers in the form of lower rates. Obviously, to permit a company, like Midwestern, which has utilized liberalized depreciation from its inception, to change to straight-line depreciation because of the change in Commission policy from normalization to flow-through would frustrate that policy as outlined in *Alabama-Tennessee.*

The causal connection between the *Alabama-Tennessee* decision and Midwestern's change to liberalized depreciation is apparent in Midwestern's request to the Commissioner of Internal Revenue, dated August 4, 1964, for a ruling on the proposed change and whether, *inter alia*, if *Alabama-Tennessee* is reversed, it could revert to liberalized depreciation, *ab initio*. By letter dated December 3, 1964, the Director, Tax Rulings Division, replied in the negative, "Your request to permit Midwestern to make a retroactively valid change back to the declining balance method after the straight line method has been adopted must be denied." (Ex. R-1)

The doctrine of managerial discretion, in this instance, bottomed on the theory of tax deferral and normalization, cannot be used to frustrate a Commission policy designed to flow-through the tax saving and advantages of the higher tax deductions to the ratepayers. Moreover, no disallowance of any operating expense actually incurred is involved in Staff's recommendation for a prospective resumption of liberalized depreciation and flow-through beginning in 1966. Only where the company can show clear and imminent injury from the continued use of liberalized depreciation is the change to straight line justified for rate-making purposes. This Midwestern has failed to do.

United Gas Pipe Line Company, 31 FPC 1180, and *Wisconsin Michigan Power Company*, 31 FPC 1445, are inapplicable because the tax issue in those cases was not, and is not, the justification for a change from liberalized to straight-line depreciation. Those companies did not adopt normalization, preferring to remain on straight-line depreciation in filing their tax returns, and so there was no question of flowing through the advantages of liberalized depreciation.

INGAA argues that computing Midwestern's tax cost on the basis of liberalized depreciation would deprive it of its rights under Section 167 of the Internal

Revenue Code, citing in particular Commission language in the *Wisconsin Michigan* case.

> * * * As to liberalized depreciation, the tax laws give management the option not to take liberalized depreciation and we do not believe that on this record we should in effect deprive the Company of its option under the tax law. (31 FPC at 1458)

This relates to a company that, unlike Midwestern, has never used liberalized depreciation. The Commission has permitted such companies as United and Wisconsin Michigan to base their tax allowance in the cost of service on the straight-line depreciation they have always used. However, regulatory rate making policy under the Natural Gas Act cannot be frustrated by invoking the Internal Revenue Code. The issue here is the rate making effect of Midwestern's switch from liberalized depreciation to straight-line depreciation during the pendency of the Section 5(a) rate proceeding. In determining the applicability to Midwestern of Commission rate policy under the Natural Gas Act, as articulated in *Alabama-Tennessee*, requiring pipelines using liberalized depreciation to flow-through the tax saving in the form of a *pro tanto* reduction in their cost of service, Section 167 of the Internal Revenue Code is neutral. It does not require a decision for or against the continued utilization of liberalized depreciation in the fixing of rates. That determination is governed by considerations of plant growth, stability or decline, economic and financial benefit or injury to the company, and the other factors discussed elsewhere in this opinion.

Moreover, as noted by Commissioner Black in his concurring opinion in *Wisconsin Michigan* (p. 1465), Section 167 of the Code does not restrict the Commission in the exercise of its regulatory responsibilities under the Natural Gas Act:

> Wisconsin Michigan has never elected to take liberalized depreciation—even during the period when this Commission permitted normalization and allowed 1.5 percent return on the reserve. While this factor alone is not conclusive, it at least indicates that the company's long standing depreciation practices were not dictated by considerations of changing regulatory policy. Should we be faced in the future with a situation in which a regulated utility has abandoned liberalized depreciation to avoid the effects of our recent decision in *Alabama-Tennessee Natural Gas Company*, Docket No. G-5471, *supra*, p. 208 or for any reason not consistent with the public interest, in my view a different result would be indicated.
>
> I am also uncomfortable with the Commission's suggestion that to "deprive the Company of its option under the tax law" might be a pivotal consideration. The Solicitor General of the United States in his brief *amicus curiae* before the Supreme Court in *United Fuel Gas Company* v. *Public Service Commission of West Virginia*[4] stated:
>
> > Where the Code provides such an option, it is in nowise inconsistent with the intent of Congress for a regulatory agency, State or federal, to require a public utility to take advantage of the tax savings and pass them on to its rate-payers. The mere fact that rapid depreciation procedures are not mandatory as a matter of federal tax law does not bespeak a congressional purpose to relieve tax payers of their obligations under other federal statutes or under State law. In particular, there is no purpose to immunize public utilities from otherwise valid regulations requiring them to utilize available cost-savings opportunities.

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[4] Memorandum for the United States and Federal Power Commission as *Amici Curiae*, in the case of *United Fuel Gas Company* v. *Public Service Commission of West Virginia* (O.T. 63, No. 527) pp. 16–17; appeal dismissed for want of a substantial Federal question, 376 U.S. 784, 84 S. St. 1133.

> It is clear that Congress in enacting Section 167 of the Code did not intend to bind the hands of the Federal Power Commission and we should not use language implying that we believe otherwise.

Commissioner O'Connor, in his dissenting opinion in *Alabama-Tennessee*, observed that a return to straight-line depreciation would render Section 167 "a useless anachronism." A recent Commission press release (Release No. 14096 November 8, 1965) noted that "the larger natural gas companies have accumulated $426.9 million in deferred income taxes, of which some $357 million is a result of liberalized depreciation under Section 167." To permit these companies to change to straight-line depreciation, absent a clear showing of economic necessity, would frustrate Commission policy designed to translate the tax saving available under Section 167 of the Code into an equivalent rate reduction for the gas pipeline industry which, the Commission concluded generally, will continue to grow in demand and plant capacity for the reasonably foreseeable future. More recently, the Commission has proposed the adoption of a statement of general policy to encourage pipelines to plan their future expansion so as to provide reserve capacity in the order of one year's growth (Docket No. R-293, November 2, 1965).

Rate Increase

Midwestern argues that the use of the $5,162,328 liberalized tax depreciation deduction used in the Examiner's initial decision of April 29, 1964, exceeds the comparable straight-line tax deduction by $2,221,423, and, consequently, the continued use of liberalized depreciation would require an immediate rate increase of approximately $1,000,000 in 1965, the first full year during which the reduced rates made effective in the earlier phase of this proceeding are in effect. The decline in annual depreciation deductions under accelerated depreciation for the test year plant is shown by Midwestern as follows: (Br. p. 20)

	Annual deduction	Decline from prior year	Cumulative decline
Test year	$5,162,328		
1963	4,800,966	$361,362	$361,362
1964	4,464,898	336,068	697,430
1965	4,152,355	312,543	[8] 1,009,973
1966	3,861,691	290,664	[8] 1,300,637

[8] The required rate increase is computed by Midwestern as 92.3% of the cumulative decline in the tax depreciation deduction from the test year amount

(92.3% of $1,009,973= $932,205)
(92.3% of $1,300,637=1,200,488)

Staff points out that this table assumes no additions to the company's test year plant (the plant in service on December 31, 1961) and that, in any event, Midwestern's experience from 1962 to 1966, is irrelevant and immaterial in the context of Staff's recommendation for a prospective flow-through of tax benefits beginning in 1966.

Staff accounts for the decline following 1961, the first full year in which both systems were in full operation, by reference to the developmental phases of Midwestern's initial life cycle when the plant was overbuilt. (Br. p. 31) The critical period for evaluating the alleged adverse impact of the continued use of liberalized depreciation is the next five years (1966–70).

Midwestern's testimony indicates that it has programmed substantial plant expansion which will reverse the decline in its depreciable plant and in its annual tax depreciation deductions. (See Staff Br., App. "C".)

The testimony of Midwestern's Witnesses Brogdon and Massey shows that estimated gross plant additions in 1966–67 will exceed $22,573,000, based on the construction of $14,500,000 of estimated additions on the Northern System in 1966,[6] and $8,073,000 of storage plant additions on the Southern System in 1967.

If we add these proposed plant additions to Midwestern's depreciable plant, its annual tax deductions under liberalized depreciation will approximate the following for the next five years:

Year	Double Declining Tax Depreciation	Straight Line Tax Depreciation	Excess	Tax Effect (48% Tax Rate) 92.308% of Excess
1966	$4,940,631	$3,298,959	$1,641,672	$1,515,395
1967	5,265,380	3,633,817	1,631,563	1,506,063
1968	5,008,041	3,689,992	1,318,049	1,216,665
1969	4,771,416	3,747,010	1,024,406	945,609
1970	4,552,921	3,804,884	748,037	690,498
	24,538,389	18,174,662	6,363,727	5,874,230

Source: Staff Initial Brief Appendix "C".

On this basis, Midwestern's deductions under liberalized depreciation will continue to exceed straight-line depreciation through 1973, even if Midwestern makes no major plant additions after the projected 1966–67 growth described by Witness Brogdon. The above tabulations assume a minimal 1.5 percent average annual growth rate. (See Staff Br. App. D)

The record also indicates that Midwestern will be under continuing pressure to make plant additions and replacements by reason of the steady increase in annual and peak-day sales. Annual sales volumes have increased from 153,340,461 Mcf in 1961, the first full year in which both Midwestern's Northern and Southern Systems were in full operation, to 211,033,248 Mcf in 1964, an increase of approximately 37.62 percent, of 12.34 percent annually. Peak-day sales for both systems increased during the same period from 572,762 Mcf to 631,701 Mcf, an increase of approximately 10.29 percent, or 3.43 percent annually.

Midwestern's major Southern System, serving the Chicago-Gary area of northern Illinois and northern Indiana, was certified in 1959, after the Commission noted in Opinion No. 316, issued October 31, 1958, 20 FPC 585:

> * * * we look with favor on the construction of large capacity pipeline facilities for serving the growing needs of this [Midwest] area. Particularly desirable is a well-founded project to serve the seemingly endless requirements of the Chicago market for both industrial and space-heating gas.

There is no suggestion in the Commission's most recent rate order affecting Midwestern, Opinion No. 477 issued September 28, 1965, that it now believes a period of reduced gas demand is imminent.

The record does not contain Midwestern's present estimate of peak transmission line capacity or system capacity, or any Staff testimony in this area. Midwestern agrees generally, however, that to provide for additional sales on either of its systems would require additional facilities (Rep. Br. p. 31).

On its Northern System, Midwestern has pending in Docket No. CP66–119 an application to construct and operate additional facilities costing $13,562,000 (mainly compressor stations) to provide capacity needed to increase its contract demand deliveries to Michigan Wisconsin by 113,000 Mcf per day.

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[6] Midwestern's application at Docket CP66–119 proposes the construction of facilities for the sale of an additional 113,000 Mcf per day to Michigan Wisconsin. (Tr. R–891)

At the present time, Trans-Canada is authorized to deliver to Midwestern a maximum of 222,360 Mcf per day. Based on a "design day" flow diagram submitted with the application in CP66–119, this maximum supply would support Midwestern's fuel requirements of 1641 Mcf and "design day capacity" of 220,719 Mcf, the latter figure including 6923 Mcf of unallocated supply. The testimony and exhibits in CP64–308 indicate that the system can actually handle 16,000 Mcf per day over the 222,360 Mcf.

Under the proposed expansion, Trans-Canada would be authorized to increase its maximum day delivery to Midwestern to 338,692 Mcf. This increase of 116,332 Mcf would support an increase from 158,000 Mcf to 271,000 Mcf in contract demand to Michigan Wisconsin and additional fuel requirements of 3332 Mcf. Thus the new "design day capacity" would be 333,719 Mcf including 6923 Mcf unallocated supply. However, this does not indicate the physical maximum capability of the system.

Midwestern also shows the maximum capability of the Northern System with the additional facilities as 344,000 Mcf (assuming such volumes were available from Trans-Canada). At this maximum capability, unallocated capacity of 11,387 Mcf is shown.

On December 2, 1965, Midwestern filed an application in CP66–172 requesting authorization to deliver on an interruptible basis an additional 25,000 Mcf per day on its Northern System during the period ending October 31, 1966.[7] Midwestern has presented, in support of its application, letters from various customers indicating a need for additional peak gas during the current heating season. The applicant states that no additional facilities will be required for this proposed service as there is sufficient capacity available on the Northern System to deliver the proposed volumes to any customer who may elect to purchase this gas.

Trans-Canada has agreed to sell to Midwestern additional volumes up to 25,000 Mcf per day (through December 10, 1966) when Trans-Canada has such gas available for sale.

Midwestern advises that it has also entered into a precedent agreement with Trans-Canada which contemplates the purchase of 26,534 Mcf of contract demand gas daily, beginning November 1, 1966, and that this agreement will represent the gas supply in a forthcoming application of Midwestern for long-term service to be filed in the near future. It appears that Midwestern is contemplating converting the proposed temporary interruptible service to a long-term firm service after November 1, 1966, and that no additional facilities will be required.

In its application in Docket No. CP63–149 covering its Southern System (certificate issued July 27, 1964, 32 FPC 369) Midwestern sought authorization to deliver an additional 25,000 Mcf per day of contract demand gas to Northern Illinois Gas Company. In explaining why no additional facilities were required, Midwestern stated that although the original authorization granted May 12, 1959, in G–16841 contemplated 14,300 compressor horsepower which would result in a design day capacity of 360,000 Mcf, Midwestern actually installed 17,100 compressor horsepower. The maximum capability flow diagram submitted with the application in CP63–149 shows estimated maximum capability of 413,963 Mcf (including compressor fuel), total peak-day obligations of 406,531 Mcf, 4000 Mcf unallocated capacity and 3432 Mcf for compressor fuel. (In a companion docket, Tennessee was authorized to increase its contract demand to Midwestern to 409,963 Mcf.)

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[7] Related filings were made by Midwestern in CP66–173 and CP66–174 to secure import authorization and Presidential permit to operate facilities.

By application in CP66–15 (certificate issued November 29, 1965, 34 FPC 1379) Midwestern proposed to provide a firm temporary winter service to two customers for the 1965–1966 heating season in a total amount of 20,000 Mcf per day. Again, Midwestern advised that no additional facilities were required, the system being capable of handling the 409,963 Mcf per day contract demand volume from Tennessee Gas, plus the 20,000 Mcf temporary winter service volumes, also to be obtained from Tennessee Gas. The supporting "Flow Diagram Reflecting 1965–1966 Winter Operations" shows deliveries by Tennessee Gas of 429,963 Mcf, Midwestern's compressor fuel consumption of 3432 Mcf and delivery obligations of 426,531 Mcf, with no unallocated capacity on Midwestern's Southern System.

Accordingly, it seems reasonable to conclude that Midwestern is nearing the upper limits of the physical capacity of its present plant.

Nevertheless, Midwestern contends that it cannot expect to make the increased peak-day sales required for future plant growth because it is the highest cost supplier to its major customers on both its Northern and Southern Systems, and, consequently, is in an unfavorable competitive position. Midwestern's pessimism seems premature in view of the fact that its relative position as the highest cost supplier has not worsened since it appeared on the scene in 1961, the first full year of operation on both systems, and Midwestern has continued to increase its sales and revenues despite its unfavorable competitive position. Moreover, flow-through would reduce Midwestern's rates[8] and improve its general competitive position.

In Opinion No. 477 issued September 28, 1965, the Commission refused to increase Midwestern's commodity rate, as urged by the Coal Interests, noting that a precarious price balance exists in the Chicago industrial market between coal and natural gas. The Commission also commented: "We expect that in the future Midwestern will be able to reflect reductions in costs or increased revenues in improved contributions of its commodity charge to the operation of the Southern System."

Midwestern's plant growth will be stimulated by the economic growth of its service area. During the past four years, this area has grown steadily in personal income, wage and salary disbursements in manufacturing, and population.

Personal Income

[Millions of dollars]

State	1960	1961	1962	1963	1964	Percent Change 1960–64
Illinois	26, 564	27, 478	28, 895	30, 020	31, 895	20. 1
Indiana	10, 211	10, 460	11, 041	11, 648	12, 273	20. 2
Minnesota	7, 094	7, 432	7, 712	8, 152	8, 364	17. 9
Wisconsin	8, 562	8, 871	9, 291	9, 617	10, 227	19. 4

Source: *Survey of Current Business*, July 1965.

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[8] Estimated at .96 cents per Mcf. (See Staff Br. p. 20.)

Wage and Salary Disbursements—Manufacturing

[Millions of dollars]

State	1960	1961	1962	1963	1964	Percent Change 1960–64
Illinois	6, 789	6, 746	7, 199	7, 430	8, 017	18. 1
Indiana	3, 321	3, 265	3, 614	3, 792	4, 059	22. 2
Minnesota	1, 210	1, 250	1, 360	1, 413	1, 504	24. 3
Wisconsin	2, 502	2, 445	2, 615	2, 746	2, 931	17. 1

Source: *Survey of Current Business*, August 1962 and July 1965.

Population

[Millions]

State	1960	1961	1962	1963	1964	Percent Change 1960–64
Illinois	10, 084	10, 119	10, 262	10, 382	10, 489	4. 0
Indiana	4, 672	4, 724	4, 724	4, 779	4, 825	3. 2
Minnesota	3, 422	3, 458	3, 492	3, 492	3, 521	2. 9
Wisconsin	3, 960	3, 999	4, 024	4, 066	4, 107	3. 6

Source: *Statistical Abstract of the United States.*

Moreover, an additional stimulus to Midwestern plant growth is the investment tax credit which permits Midwestern to subtract seven percent of the cost of eligible new property from its federal income taxes without flow-through of this tax saving.

Finally, a reduction in Midwestern's rates flowing from a reduction of $1,174,845[9] in its cost of service can only improve its competitive position. Witness Van Scoyoc testified that the reduction in net investment due to accrued book depreciation between the test year and 1965, in the amount of $9,258,000, produces a cushion or margin of return above 6.5 percent (Tr. 206). In its reply brief, the City of Chicago notes that whereas the 6.5 percent rate of return approved in Opinion No. 444, as settled, would yield a return of $5,473,030 per annum, Midwestern actually earned $6,789,101 on a smaller net rate base in 1964 (Appendix B). These computations are disputed by Midwestern which emphasizes that 1964 revenues must be adjusted for known cost increases. While it is true, as argued by Midwestern, that there will be known increases in Midwestern's gas purchase costs, ad valorem taxes, salaries, wages, and other items, Midwestern's current sales and revenue growth indicate that these increased costs will be offset by increased revenues and earnings.

So long as earnings continue to equal or exceed the allowed rate of return, and there is no persuasive evidence that they have not since the test year (1961–1962), an increase in rates is not required or threatened. Midwestern's rates remain under the continuing jurisdiction and review of the Commission and it can always file for a rate increase under Section 4 of the Act to reflect any adverse developments in its future costs or earnings' picture. This was the procedure suggested by the Commission in *Natural Gas Pipeline* to give effect to a change in rates resulting from a shift to straight-line depreciation. (Op. No. 456–A, 33 FPC 1277 at p. 1280.)

Moreover, we cannot evaluate the impact of cost increases without considering the effect of other factors including a declining rate base incident to the alleged low future growth rate and declining tax depreciation deductions. This would require a new rate case beyond the scope of the present, limited, reopened proceeding.

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[9] See Appendix 3.

Interest coverage, credit standing and financial integrity

Midwestern's first mortgage pipeline bonds due in 1980 contain certain coverage restrictions which must be met prior to the issuance of additional bonds. The net earnings of the company available for interest and depreciation deductions before income taxes must not be less than 4.5 times annual interest charges, and not less than 1.75 times interest and sinking fund payments. Net earnings before interest and income taxes but after depreciation accruals must not be less than 2.25 times annual interest charges.

Midwestern argues that liberalized depreciation and flow-through rates would have a severe adverse impact on its ability to meet these coverages with consequent injury to its credit standing and financial integrity. These conclusions are supported by the following coverage computations: (Midwestern's Br. p. 29, Ex. R-8)

	1963	1964	1964 Restated for Rate Reduction of Oct. 13, 1964	Further Adjusted for Mr. Van Scoyoc's Rate Reduction
First Coverage—4.25 required	4.33	4.56	3.85	3.33
Second Coverage—1.75 required	2.18	2.20	1.86	1.61
Third Coverage—2.25 required	3.40	3.58	2.88	2.35

These Midwestern computations represent the effect on interest coverage of the reduction in the cost of service and revenue requirements incident to the flow-through of liberalized depreciation. If we utilize the cost of service in Opinion No. 477, as settled, Appendix A, it becomes apparent that liberalized depreciation and flow-through have a rather limited impact on Midwestern's ability to meet the applicable coverage provisions. As shown in Appendices 1 and 2, Midwestern's maximum annual requirements to service outstanding bonds is $6,567,030.00. This gives a second coverage ratio of 1.73 before flow-through and 1.55 after flow-through. However, if this figure is adjusted for bonds actually retired in 1964, a total of $5,574,000.00, the coverage ratio becomes 2.04, before flow-through, and 1.83 after flow-through, a coverage in excess of the 1.75 required. Additional annual retirements should produce an equivalent improvement in the coverage ratio due to the reduction in interest.

The basic deficiency, however, in Midwestern's argument is the assumption that its bond coverage requirements are a meaningful measure of financial integrity and a determinant of rates and revenues. In order to meet the coverage requirements of its bond indenture, Midwestern would have to have an over-all rate of return of 8.7 percent instead of the 6.5 percent that was found to be just and reasonable (32 FPC 1052–1053). The Examiner there suggested that the bondholders were more interested in the high interest rate of 5¾ percent plus a warrant sweetener than the mathematics of the interest coverage provisions:

> The high interest rate, plus the "sweetener" of the warrants, thus represented what was necessary to compensate prospective bondholders for the risks of lending money to Midwestern. Having already received this com-

> pensatory inducement for the purchase of the Midwestern mortgage bonds, it could not seriously be suggested that the bondholders are now entitled to have their investment converted into a bond with the type of interest coverage which is characteristic of an AAA-rated bond. (p. 1053).

It seems reasonable to conclude, therefore, that Midwestern's credit standing and financial integrity will not be adversely affected by whether or not its rates are determined on the basis of liberalized or straight line depreciation.

The Examiner concluded in April 1964 that "* * * it does not appear that existing bondholders are notably concerned about Midwestern's continuing ability to meet the 5¾ percent interest payment on these mortgage bonds, and it is apparent there are other investors willing to take their place" (32 FPC 1055). The bonds were bid at 104–106 during July-December 1963. Standard+Poor's Bond Guide for December 1965 shows 103 bid as of the end of November 1965.

Midwestern's ability to raise funds by the issuance of additional securities will be determined principally by its sales growth, demand, plant capacity, net earnings picture, and the financial health of the Tennessee[10] system of which it is a part, and by which it is owned and controlled (32 FPC 1000, 1046–53).

The Commission stated in the prior rate proceeding:

> MGT is controlled by Tennessee. Its equity capital was furnished by Tennessee and there is no reason to assume that Tennessee will not continue to be its primary source of equity capital. (32 FPC 1000.)

Moreover, as noted by the City of Chicago, the issuance of new securities is not a major concern of an allegedly non-growth company. The same growth which requires additional financing will provide the additional tax depreciation necessary to keep liberalized depreciation above the level of straight-line deductions.

Motion to Strike

On December 8, 1965, Midwestern filed a motion to strike certain portions of the reply briefs of staff counsel, the City of Chicago, and American Public Gas Association, or in the alternative, to receive and consider a supplemental reply brief of Midwestern attached to the motion.

Midwestern's motion is based on the allegation that important new matters are raised for the first time in their opponents' reply briefs, *to wit:* A challenge to Midwestern's testimony as to the effect of flow-through rates on Midwestern's financial ability, credit standing, and its ability to meet its bond coverage requirements, and, specifically, the City of Chicago's argument that Midwestern had excessive earnings for 1964.

The motion to strike is denied. The argument presented by staff counsel, the City of Chicago and the American Public Gas Association in their reply briefs is in rebuttal to Midwestern's contention that the imposition of flow-through rates would adversely affect its ability to meet coverage requirements and thus its credit and financial standing. The City of Chicago's specific argument that Midwestern had excessive earnings in 1964 is rebuttal, in part, to Midwestern's statement in its initial brief (p. 29) that, "If 1964 coverages were restated to reflect for the full year the rate reduction ordered by Opinion No. 444 which became effective October 13, 1964 * * * Midwestern's ability to meet all three coverages is clearly adversely affected * * *"

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[10] Tennessee continues to use liberalized depreciation where available. See *Knoxville Utilities Board* v. *East Tennessee*, initial decision August 23, 1965, 35 FPC at p. 546. It recently proposed an $82.5 million expansion to meet the increasing natural gas requirements of its customers (Release No. 14149, Dec. 14, 1965).

The motion to receive Midwestern's supplemental reply brief, filed December 8, 1964, is granted. Midwestern should be afforded an opportunity to reply specifically to the arguments made by Staff, the City and American Public Gas Association. Staff Counsel's motion to file an answering reply brief is denied. Midwestern was required to open under the Commission hearing order of April 21, 1965; it is entitled to close.

CONCLUSION

We have found that the liberalized method of tax depreciation is the appropriate one to be used in computing Midwestern's tax costs for rate making purposes. There remains for resolution the computation of the tax depreciation deduction and the question as to whether, as urged by the City of Chicago and APGA, the resulting rate reduction should be made retroactive to October 13, 1964, or prospective, beginning in 1966, as proposed by Staff counsel.

The City of Chicago argues that the Staff proposal conflicts with the terms of the rate settlement approved by the Commission on December 30, 1964 (32 FPC 1548, 1549) under which the adjustment, if any, to Midwestern's rates resulting from a decision on the tax depreciation question would be effective as of October 13, 1964. While this language may be read as a bar to a rate adjustment effective prior to October 13, 1964, the Commission's order of December 30, 1964, approving the rate settlement, was not a decision on the issues in this reopened proceeding. One of these issues is the question of the timing, as well as the amount, of any rate adjustment that may be required after October 13, 1964.

In its decision remanding the tax depreciation question, the Commission stated in pertinent part: (Opinion No. 444, p. 996). "These rates shall be subject to further reduction *prospectively* to reflect the use of liberalized depreciation in the tax allowance should the Commission finally determine that the liberalized method is the appropriate one to be used." [Emphasis supplied.] The prospective approach is adopted in this initial decision because it will afford Midwestern the opportunity of conforming its tax depreciation with the proposed rate treatment recommended herein by obtaining the necessary consent from the Commissioner of Internal Revenue to change back to liberalized depreciation in 1966. Moreover, it is consistent with the Commission's prospective approach in *Alabama-Tennessee* in that the precise issue involved in this remanded proceeding is new and has not been decided by the Commission. The Commission allowed Midwestern in Opinion No. 444, to fix its rates on the basis of straight line depreciation pending the decision in this remanded proceeding. It is also consistent with the ruling of the Internal Revenue Service that any change back to liberalized tax depreciation cannot be made retroactive (see letter of December 3, 1964, Ex. R-1).

As a practical matter, Midwestern cannot recover any reduction in revenues for the period from October 13, 1964 to December 31, 1965, in which straight-line depreciation is being utilized. Moreover, this reopened proceeding stems from a Section 5(a) proceeding under which, generally, rate reductions are prospective.

Accordingly, a prospective reduction in Midwestern's cost of service of $1,174,845 beginning in 1966, or as soon thereafter as Midwestern is able to change back to liberalized depreciation under applicable Internal Revenue Service rules and regulations, is fair and equitable in these circumstances. Should Midwestern elect not to request the consent of the Commissioner of Internal Revenue to revert back to liberalized depreciation, the reduction for rate making purposes will be effective as of January 1, 1966. The amount of the reduction is representative of what the record reasonably suggests Midwestern will experience by way of plant growth and depreciation deductions for the period immediately following the resumption of liberalized depreciation for rate making purposes in 1966.

The five-year average adopted here is based on Midwestern's projected additions and an assumed minimal future average annual growth rate of 1.5 percent (Appendix 3). This compares with Midwestern's own estimates of 1.7 percent annually for the 14-year period from 1962–1975 (Br. p. 40), and 3.27 percent for the 10-year period ending 1970 (see Staff br. App. C). Midwestern objects to the use of data for 1966–1970, 4 to 8 years after the test period. Use of the test year suggests a retroactive reduction as of October 13, 1964, in the cost of service of $1,654,000, as proposed by Witness Van Scoyoc for the City of Chicago, as against $1,174,845, proposed herein beginning in 1966. We believe it more equitable and consistent with rate making principles to use the estimated plant for the period immediately following the resumption of liberalized depreciation. This yields an average annual tax depreciation deduction on a double declining balance basis of $4,907,678 (see App. 3 and 4), as compared with $5,162,328 in the original rate proceeding (32 FPC 1084) and $2,940,905 proposed by Midwestern on the straight-line basis.

FINDINGS AND CONCLUSIONS

Upon consideration of the entire record in this proceeding, the evidence adduced and the briefs filed, the Presiding Examiner finds and concludes, in addition to the findings and conclusions hereinbefore stated, that:

(1) Midwestern Gas Transmission Company is a "natural-gas company" subject to the provisions of the Natural Gas Act, and the sales of natural gas for resale which are the subject of this order are sales of natural gas in interstate commerce and are subject to the jurisdiction of the Commission.

(2) The proper tax depreciation deduction to be used in determining Midwestern's just and reasonable rates, in Docket Nos. RP61–19 and RP62–7 (reopened) is $4,907,678.

(3) Midwestern should be required to file substitute tariff sheets, subject to the approval of the Commission, showing a reduction in its cost of service of $1,174,845 beginning in 1966, or as soon thereafter as Midwestern is able to change back to liberalized depreciation under applicable Internal Revenue Service rules and regulations.

ORDER

WHEREFORE, *It is ordered*, subject to review by the Commission on appeal, or upon its own motion as provided in the Commission's Rules of Practice and Procedure, that:

(A) Within 45 days from the date of the issuance of this order, Midwestern Gas Transmission Company shall file substitute tariff sheets satisfactory to the Commission containing the rates reflecting the reduction in its cost of service found to be just and reasonable herein, as set forth in finding paragraph (3).

(B) The annual tax depreciation deduction herein found to be just and reasonable is effective January 1, 1966, should Midwestern elect not to request the consent of the Commissioner of Internal Revenue to revert to liberalized depreciation, or as soon thereafter as Midwestern is able to change back to liberalized depreciation under applicable Internal Revenue Service rules and regulations.

WILLIAM C. LEVY,
Presiding Examiner.

APPENDIX 1

MIDWESTERN GAS TRANSMISSION COMPANY

Bond Coverages Resulting from Cost of Service (Revenues) before and after flow through of tax benefits

	1964 Per Books	Cost of Service per Opinion No. 477 Settlement (Before Flow Through)	Adjusted Cost of Service (After Flow Through)
5¾ percent bonds due 1980	$55,200,000 5.75%		
Annual Bond Interest	$3,174,000		
(A) Net earnings available for interest and property retirements		$11,350,314	$10,175,469
(1) Annual interest charges on bonds outstanding		3,174,000	3,174,000
Times covered (Co. says 4½ times required)		3.58	3.21
(2) Maximum annual service charged to bonds outstanding		6,567,030	6,567,030
Times covered (Co. says 1¾ times required)		[2] 1.73	[1] 1.55
(B) Net Earnings Available for Interest		$8,264,261	$7,089,416
Annual interest charges on bonds		3,174,000	3,174,000
Times covered (Co. says 2¼ times required)		2.60	2.23

[1] FPC Form #2 shows bonds retired in 1963 of $2,379,000 and in 1964—$2,400,000. By adding together the $2,400,000 for bonds retired and interest on bonds of $3,174,000, $5,574,000 becomes the total annual service charge the company is currently paying out. By relating the $5,574,000 to the $ net earnings of $10,175,469 the coverage becomes 1.83 times instead of 1.55 times as indicated by use of Midwestern's figure of $6,567,030.

[2] The applicable coverage here would be 2.04 using the same criteria as in Footnote [1].

APPENDIX 2

MIDWESTERN GAS TRANSMISSION COMPANY

Net Earnings Available for Interest and Property Retirements and Net Earnings Available for Interest before and after flow through of tax benefits

	Cost of Service per Opinion No. 477 Settlement (Before Flow Through)	Adjusted Cost of Service (After Flow Through)
Total Operating and Non-operating Revenues:		
Operating Revenues	$66,985,223	$65,810,378
Other Income (Year 1964—See Midwestern's Exh. R-8, Sched. 2)	377,744	377,744
Total	67,362,967	66,188,122
Operating Expenses:		
Other Gas Supply Expenses	51,866,495	51,866,495
Transmission Expenses	1,654,872	1,654,872
Administrative and General Expenses	1,177,893	1,177,893
Taxes Other than Income Taxes	1,313,393	1,313,393
Total	56,012,653	56,012,653
Net Earnings Available for Interest and Property Retirement	11,350,314	10,175,469
Depreciation and Amortization	(3,086,053)	(3,086,053)
Net Earnings Available for Interest	8,264,261	7,089,416

APPENDIX 3

MIDWESTERN GAS TRANSMISSION COMPANY

Determination of Prospective Rate Reduction Reflecting Liberalized Depreciation Tax Savings Based on Normalization of Excess of Double Declining Tax Depreciation over Straight-line Tax Depreciation

Year	Double Declining Tax Depreciation	Straight Line Tax Depreciation	Excess	Tax Effect (48% Tax Rate) 92.308% of Excess	Reduction in Cost of Service
1966	$4, 940, 631	3, 298, 959	1, 641, 672	$1, 515, 395	----------------
1967	5, 265, 380	3, 633, 817	1, 631, 563	1, 506, 063	----------------
1968	5, 008, 041	3, 689, 992	1, 318, 049	1, 216, 665	----------------
1969	4, 771, 416	3, 747, 010	1, 024, 406	945, 609	----------------
1970	4, 552, 921	3, 804, 884	748, 037	690, 498	----------------
	24, 538, 389	18, 174, 662	6, 363, 727	5, 874, 230	----------------
Division of above total by 5 (Years)	4, 907, 678	3, 634, 932	1, 272, 746	1, 174, 845	$1, 174, 845

Source: Staff Initial Brief Appendix "C".

APPENDIX 4

MIDWESTERN GAS TRANSMISSION COMPANY

Chronology of Several Costs of Service up to Present Time Showing Reduction in Rate Settlement Cost of Service Due to Examiner's Adjustment to Reflect Flow Through of Tax Benefits

	Examiner's Decision Effective as of 6/30/62	Increase or (Decrease)	Commission Opinion No. 444 Effective as of 6/30/62	Increase or (Decrease)	Commission Opinion No. 477 (Settlement) as of 6/30/62	Reopened Case (RP62-7)	
						Examiner's Reduction in Cost of Service	Adjusted Cost of Service (After Flow Through)
					(Rates effective 1/1/65) (Before Flow Through)		
Operating Expenses:							
Other Gas Supply Expenses	$51, 592, 200	635, 226	52, 227, 426	(360, 931)	51, 866, 495		$51, 866, 495
Transmission Expenses	1, 654, 872		1, 654, 872		1, 654, 872		1, 654, 872
Administrative and General Expenses	1, 177, 893		1, 177, 893		1, 177, 893		1, 177, 893
Total Operating Expenses	54, 424, 965	635, 226	55, 060, 191	(360, 931)	54, 699, 260		54, 699, 260
Depreciation	3, 042, 054		3, 042, 054		3, 042, 054		3, 042, 054
Amortization of Franchises and Consents	39, 285	4, 714	43, 999		43, 999		43, 999
Federal Income Tax		1, 914, 174	1, 914, 174	383, 509	2, 297, 683	(1, 174, 845)	[A] 1, 122, 838
State Income Tax	107, 831	(7, 216)	100, 615	26, 127	126, 742		126, 742
Other Taxes	1, 313, 393		1, 313, 393		1, 313, 393		1, 313, 393
Other Gas Revenues (Credit)	(10, 938)		(10, 938)		(10, 938)		(10, 938)
Return on rate base at 6.5%	5, 519, 327	(278, 321)	5, 241, 006	232, 024	5, 473, 030		5, 473, 030
Total Cost of Service	64, 435, 917	2, 268, 577	66, 704, 494	280, 729	66, 985, 223	(1, 174, 845)	65, 810, 378

[A] The amount of $1,122,838 is the resulting allowance for F.I.T. after deducting Examiner's adjustment of $1,174,845 from settlement amount of $2,297,683. Below is a rough determination of what F.I.T. would be as related to the settlement amounts based on a calculation of flow through of *liberalized depreciation.*

Return allowed	$5, 473, 030
Add: Book depreciation and amortization	3, 086, 053
Less:	
Bond Interest	(3, 174, 000)
Tax depreciation on double declining balance basis (See App. 3)	(4, 907, 678)
Adjusted Return	477, 405
F.I.T. Allowance (92.308% of Adjusted Return)	440, 683

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

COLORADO INTERSTATE GAS COMPANY, DOCKET NO. CP66-299

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued July 18, 1966)

On March 22, 1966, Colorado Interstate Gas Company (Applicant), filed in Docket No. CP66-299 an application and a supplement thereto on June 10, 1966, pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition of the facilities of its wholly owned subsidiary, Natural Gas Producers, Inc. (NGPI), the further development of certain storage facilities and the rendition of peaking service from such facilities, all as more fully set forth in the application and supplement thereto.

Applicant seeks authorization for the following proposals:

(1) to acquire all of the facilities and properties of its wholly owned subsidiary, NGPI, and thereafter to render the services now performed by NGPI and, for such purpose, to operate said facilities as an integral part of Applicant's system,

(2) to continue to operate the Fort Morgan Field in Northeast Colorado, including further development thereof as a gas storage reservoir, pursuant to a four year program terminating in 1969, and in connection therewith,

(3) to construct and operate the following described facilities in the year indicated:

1966 (a) 0.6 mile of pipeline and replace 4- and 6-inch valves.

1967 (b) 56.8 miles of 16-inch storage pipeline from the Fort Morgan Field to Watkins Junction, near Denver and install (1) five wellhead dehydrators, (2) install telemetering facilities at Watkins Junction.

1968 (c) 0.8 mile of pipeline to connect three wells. Install three wellhead dehydrators.

1969 (d) 0.7 mile of pipeline to connect four wells. Drill one well, connect an existing well to injection and install four dehydrators.

(4) to render a peaking service from said storage field, peak-day sales for this proposed service being estimated to be 96,090 Mcf[1] of gas by the 1969-1970 heating season.

The application states that NGPI's main 10-inch pipeline interconnects with Applicant's pipeline system at a point in Elbert County, Colorado, approximately forty miles southeast of Denver. NGPI was organized by Applicant in 1951 as a small, intrastate transmission company for the purpose of purchasing gas in the Denver Basin area of northeast Colorado for sale to local towns. Peak and annual sales of NGPI for the year 1965 were 34,822 Mcf and 5,672,927 Mcf, respectively, at 14.73 psia. NGPI presently produces gas in the Fort Morgan Field in Northeast Colorado and purchases gas, either at the wellhead or at the tail gate of gasoline plants, in various other small fields in Morgan and Washington Counties, Colorado. The gas so produced and purchased is transported and sold to Applicant, at the point of interconnection described above and is sold for resale to distributors in the cities of Fort Morgan, Brush, and other small Colorado communities and for direct consumption to Great

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[1] All volumes are stated at 14.65 psia unless otherwise noted.

Western Sugar Company. Applicant states that all of such sales are consummated and all of such gas is consumed within the State of Colorado.

The present capacity of the Fort Morgan Field is approximately 13,000,000 Mcf of natural gas. The additional construction proposed by the instant application will provide for the withdrawal of an estimated 4,339,000 Mcf of storage gas during the 1969–1970 heating season.

Applicant's proposed construction consists in large part of 56.8 miles of 16-inch pipeline to extend from the Fort Morgan Field to Watkins Junction, a point of interconnection with Applicant's main pipeline system near Denver. This construction is scheduled for 1967, and will cost an estimated $2,054,468.

Applicant further proposes to construct, pursuant to its four year program, approximately 2.1 miles of lateral pipeline for the purpose of connecting various wells in the Fort Morgan Field, a new well to be drilled and equipped for dehydration and oil removal together with appurtenant facilities. The total estimated cost of Applicant's proposed construction is $2,891,793.

Applicant proposes to acquire by merger all the facilities and property of NGPI including 116.7 miles of transmission and storage lines ranging from 2 to 16 inches in diameter, land and miscellaneous equipment. The net depreciated book cost was $5,455,721 on December 31, 1965. Of this amount, $4,376,975 were costs related to the storage function.

The gas supply from northeast Colorado has been on the decline. It is anticipated that by the end of 1968, the supply will be insufficient to serve the local market and that gas from storage or other sources will be required to meet the customers' demands.

In 1961 NGPI acquired the Fort Morgan Field for development as a storage reservoir. The field contained recoverable liquids and wet gas. NGPI has been conducting cycling operations since 1962 by injecting dry gas and producing reservoir liquids and wet gas. The cycling operation has progressed to the point where the field now contains substantially dry gas. Studies show that this field is suitable as a storage reservoir and presently contains about 11,900,000 Mcf of gas or approximately 91 percent of the original gas-volume-in-place. Applicant proposes to develop the storage deliverability by injecting an additional 1,000,000 Mcf of gas to attain a total storage capacity of 13,000,000 Mcf. The development program will be over a four-year period and involve a total expenditure of $2,891,793. Applicant anticipates that by the end of 1969, the storage will be capable of providing 96,090 Mcf peak day capacity to Applicant's system.

Applicant proposes to initiate a new peaking service to its customers commencing with the 1966–67 heating season. The service will be available from November 1 through March 31 to those customers purchasing gas under Rate Schedules G–1 and P–1. Eight customers have executed precedent agreements with Applicant setting forth maximum daily quantity and seasonal volumes for the next four years. These volumes reflect 5 to 49 days use of the storage.

The estimated total overall cost of the facilities, including the cost of new facilities proposed to be constructed and the net book value of the utility plant proposed to be acquired, owned, and operated by Applicant is $8,347,514, which cost will be financed from funds on hand, funds from operations, or from short term bank loans.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on July 14, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, supplement and exhibits, submitted in support of the authorizations, and upon consideration of the record,

The Commission finds:

(1) Applicant, Colorado Interstate Gas Company, a Delaware corporation having its principal place of business in Colorado Springs, Colorado, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order issued June 5, 1945, in Docket No. G–294 (4 FPC 936).

(2) The proposed acquisition of facilities of NGPI, construction and operation of facilities and sale of natural gas, as hereinbefore described and as more fully described in the application and exhibits in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed acquisition of facilities, construction and operation of facilities and sale of natural gas are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, authorizing the acquisition of facilities of NGPI, construction and operation of facilities, and the sale of natural gas as more fully described in the application in this proceeding, subject to the jurisdiction of the Commission, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are hereby conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The facilities hereby authorized shall be completed and placed in actual operation and the transportation of natural gas authorized in paragraph (A) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within 12 months from the date on which this order issues for proposed 1966 facilities, and within 12 months of the period stated for facilities proposed for 1967, 1968 and 1969.

(D) Applicant shall file within 30 days after the issuance of this order superseding service agreements with NGPI's present resale customers executed in accordance with the Commission's Regulations reflecting the terms and conditions of the sale and delivery of natural gas to such customers.

(E) Applicant shall comply with the following stated requirements:

(1) Applicant shall cancel Volume 3 to its FPC Gas Tariff, effective May 1, 1968, and substitute its applicable rate schedules in Volume 1 at that time;

(2) The costs associated with the merger of NGPI and costs attributable to the construction of storage facilities requested herein shall not be used by Applicant to support any major rate increase before November 1, 1970;

(3) The propriety of Applicant's proposed accounting for costs of "Leaseholds" acquired by NGPI, as shown in account no. 350.2 in Exhibit S attached to the application, is hereby reserved.subject to further order;

(4) The maximum inventory of gas stored in the Fort Morgan Field shall not exceed 12,929 MMcf at 14.73 psia and the maximum wellhead shut-in pressure shall not exceed 1,370 psia without prior authorization of the Commission; and

(5) Applicant shall submit semiannual reports (to coincide with termination of the injection and withdrawal cycles) containing the following information on proposed operations:

(a) The volumes of gas injected or withdrawn each month and the corresponding total volume in the reservoir;

(b) The maximum daily injection or withdrawal volumes experienced during the month;

(c) The stabilized shut-in wellhead pressure of each observation and active well when pressure stabilization exists;

(d) A map of the most recent interpretation of underground structure;

(e) A tabulation of wells drilled, cleaned, or recompleted with subsea depths of formations and casing settings, copies of any core analyses, back-pressure tests or electric logs; and

(f) Reports shall continue to be filed until the storage inventory volume has reached or closely approximated the maximum volume permitted in the Commission's order and for two years thereafter.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

NANTAHALA POWER AND LIGHT COMPANY, DOCKET NO. E–7261

DECLARATORY ORDER

(Issued July 18, 1966)*

The question presented is whether the Commission is foreclosed from requiring a license for operating and maintaining a hydroelectric development which affects the interests of interstate or foreign commerce within the Supreme Court's holding in *Taum Sauk*[1] by a Commission finding, which was made prior to the Supreme Court decision and which is not in accord with it, that the development would not affect such interests.

The proceeding arises on the Nantahala Power and Light Company's[2] petition for a declaratory order that seven constructed hydroelectric developments in the Little Tennessee River basin do not require licenses under Part I of the Federal Power Act (16 U.S.C. 791–823).[3] It appears from the petition and is assumed for purposes of this proceeding that: (1) The streams on which the developments are located, being headwaters of navigable waters of the United States, are waters over which Congress has jurisdiction under the commerce clause. (2) The sections of the streams on which the developments are located are not them-

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*Affirmed, *Nantahala Power & Light Co.* v. *F.P.C.*, 384 F. 2d 200 (CA4–1967), cert. denied 390 U.S. 945 (1968).

[1] *F.P.C.* v. *Union Electric Co.*, 381 U.S. 90 (1965). Taum Sauk is the name of the development over which the Commission asserted jurisdiction in that case.

[2] The company, a wholly owned subsidiary of the Aluminum Company of America, has its principal offices in Franklin, North Carolina.

[3] The developments and the streams on which they are located are as follows: (1) Nantahala project on the Nantahala River, Dick's Creek, and White Oak Creek; (2) Thorpe project (formerly Glenville project) on the West Fork Tuckasegee River; (3) Queen's Creek project on Queen's Creek; (4) Tuckasegee project on the West Fork Tuckasegee River; (5) Cedar Cliff project on the East Fork Tuckasegee River; (6) Bear Creek project (formerly Bear Creek-Island Ford project) on the East Fork Tuckasegee River; and (7) Tennessee Creek project (formerly Wolf Creek project) on the East Fork Tuckasegee River.

selves navigable waters of the United States. (3) The developments do not affect downstream navigable capacity. (4) Petitioner's power system is interconnected with those of Tapoco, Inc., and the Tennessee Valley Authority, and the energy produced at the developments enters the interstate power system formed by these interconnections.[4]

Section 23(b) of the Act requires anyone desiring to construct a hydroelectric development on a non-navigable stream, but one over which Congress has jurisdiction under the commerce clause, to file a declaration of intention. If the Commission finds that "the interests of interstate or foreign commerce would be affected by such proposed construction," the section prohibits the declarant from constructing, maintaining, or operating the development without a license. If the Commission makes the contrary finding, the section grants the declarant permission to construct the development upon compliance with state law. 16 U.S.C. 817.[5]

Petitioner's developments were built at various times between 1941 and 1955. Before construction was begun on each development, Petitioner filed the requisite declaration of intention. At the time the declarations came before the Commission, the "interests of interstate or foreign commerce" as used in Section 23(b) was treated as referring only to interests in navigation and water commerce. The Commission made the statutory finding, based on the existing facts and understanding of the law, that these interests would not be affected by the proposed construction.[6]

In *Taum Sauk*, handed down in 1965, the Supreme Court rejected the assumption which underlay these findings. "Congress," it held, "drew [in Section 23(b)] upon its full authority under the Commerce Clause, including but not limited to its power over water commerce." *F.P.C.* v. *Union Electric Co.*, 381 U.S. 90, 96 (1956). A corollary of the holding is that "Congress has required a license for a water power project utilizing the headwaters of a navigable river to generate energy for an interstate power system."[7]

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[4] The interconnection with TVA is pursuant to the so-called Fontana Agreements between the United States and Alcoa. The agreements, dating from 1941 and extending through 1982, provide that power generated by Petitioner be made available to TVA, which in turn make power available to Petitioner or Alcoa at the latter's aluminum smelting works at Alcoa, Tennessee. Tapoco, Inc. is another wholly owned subsidiary of Alcoa.

[5] Section 23(b) provides in pertinent part: It shall be unlawful for any person * * *, for the purpose of developing electric power, to construct, operate, or maintain any dam, water conduit, reservoir, power house, or other works incidental thereto across, along, or in any of the navigable waters of the United States * * * except under and in accordance with the terms of a permit or valid existing right-of-way granted prior to June 10, 1920, or a license granted pursuant to this Act. Any person * * * intending to construct a dam or other project works across, along, over, or in any stream or part thereof, other than those defined herein as navigable waters, and over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States shall before such construction file declaration of such intention with the Commission, whereupon the Commission shall cause immediate investigation of such proposed construction to be made, and if upon investigation find that the interests of interstate or foreign commerce would be affected by such proposed construction such person * * * shall not construct, maintain, or operate such dam or other project works until it shall have applied for and shall have received a license under the provisions of this Act. If the Commission shall not so find, * * * permission is hereby granted to construct such dam or other project works in such stream upon compliance with State laws.

[6] The findings are reported at 2 FPC 753 (Nantahala project), 2 FPC 754 (Thorpe project), 6 FPC 426 (Queen's Creek project), 6 FPC 756 (additional project works of the Nantahala project), 8 FPC 690 (Tuckasegee project), 8 FPC 1117 (Cedar Cliff, Bear Creek, and Tennessee Creek projects). The Fontana Agreement providing for interchange of power between Petitioner and TVA had been signed before all but the first two of these findings, but is not referred to in them. .

[7] The Commission decision in *Taum Sauk*, which reached the same result as the Supreme Court decision, was issued in 1962. *Union Electric Co.*, 27 FPC 801 (1962).

Shortly after *Taum Sauk* was decided by the Supreme Court, we corresponded with Petitioner, among other owners of constructed developments, in an effort to encourage voluntary filing of applications for licenses. Petitioner's request for a declaratory order that its developments do not require licenses was filed on November 29, 1965.

Petitioner contends, in effect, that the Commission is foreclosed from correcting findings on declarations of intention which were made favorably to the declarant under an erroneous interpretation of the statute. It argues that the Commission lacks statutory authority to reconsider its findings on declarations of intention, or if the Commission does have the authority, it is barred from exercising it by the doctrine of equitable estoppel. Petitioner states that when the Commission makes findings on declarations of intention that proposed construction would not affect the interests of interstate or foreign commerce, the declarant receives a Congressional permit in perpetuity for its developments under the final sentence of Section 23(b) of the Act.

We conclude that none of these arguments nor any of Petitioner's several ancillary arguments is valid, and we order Petitioner to apply for licenses.

I

The Commission's findings on Petitioner's declarations of intention were based, as we have noted, on an erroneous conception of the governing law. The courts have left no doubt that administrative agencies in general, and the Commission in particular, have authority to correct mistakes of law and are not estopped from exercising this authority. The leading case is *Automobile Club of Michigan* v. *Commissioner*, 353 U.S. 180 (1957). There the Commissioner of Internal Revenue ruled in 1934 and 1938 that the petitioner was exempt from Federal income taxes because it was a "club" within the meaning of the internal revenue laws corresponding to Section 101(9) of the Internal Revenue Code of 1939 (26 U.S.C. (1935 ed., Supp. V) 101(9)). He revoked the ruling in 1945 and retroactively applied the revocation to 1943 and 1944. The Supreme Court, noting that the "Commissioner's earlier rulings were grounded upon an erroneous interpretation of the term 'club' in § 101(9) and thus were based upon a mistake of law," stated (*id.* at 183):

> The petitioner argues that, in the light of the 1934 and 1938 rulings, the Commissioner was equitably estopped from applying the revocation retroactively. This argument is without merit. *The doctrine of equitable estoppel is not a bar to the correction by the Commissioner of a mistake of law.* [Emphasis added.][8]

See also *United Gas Improvement Co.* v. *Callery Properties, Inc.*, 382 U.S. 223 (1965). "An agency, like a court, can undo what is wrongfully done by virtue of its order."[9]

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[8] *Cf., United States* v. *San Francisco*, 310 U.S. 16, 31–32 (1940); *Utah Power & Light Co.* v. *United States*, 234 U.S. 389, 408–409 (1917).

[9] The Commission in *United Gas* granted certificates under the Natural Gas Act (15 U.S.C. 717–717w) without imposing conditions as to sales contract prices. On appeal the Commission was held to have erred in not conditioning the certificates and its order was vacated. The Commission instituted a second proceeding to determine appropriate conditions. Meanwhile, the gas was being sold under the original sales contract prices. The certificates granted in the second proceeding were conditioned to lower prices, and the Commission ordered a refund of the amounts collected in excess of these prices. The Supreme Court sustained the refund order.

This principle was applied to Part I of the Federal Power Act in *Niagara Falls Power Co.* v. *F.P.C.*, 137 F. 2d 787 (CA2–1943), cert. denied, 320 U.S. 792 (1943). The error there was in the interpretation of Section 23(a) of the Act (16 U.S.C. 816). The section provides that if the holder of a permit which was issued prior to approval of the Act surrenders the permit and obtains a license, the Commission will determine the net investment in the development according to its fair value. Niagara Falls had held several Federal water diversion permits, but when the Act was approved, the last of these expired by its terms, and Niagara Falls was left with only state water diversion rights. The Commission, interpreting "permit" as used in Section 23(a) to refer to state as well as Federal authorizations, issued a fair value license. Later, the Commission, reversing itself, held that "permit" referred only to Federal authorizations, and in determining Niagara Falls' net investment, refused to use the fair value standard. The Second Circuit, through Judge Learned Hand, sustained the Commission's second interpretation of the statute. Although Section 6 of the Act expressly provides that licenses "may be altered * * * only upon mutual agreement between the licensee and the Commission * * *" (16 U.S.C. 799), the court held that the fair value license condition did not need to be followed in determining net investment.[10]

Although the court in the *Niagara Falls* case, as well as those in the *Automobile Club* and *United Gas* cases, cited above, did not find it necessary to invoke any statutory provision as the source of the agency's authority to correct mistakes, such provision exists. Section 309 of the Act (16 U.S.C. 825h) authorizes the Commission to "amend * * * and rescind such orders, rules, and regulations as it may find necessary or appropriate to carry out the provisions of this Act." The Eighth Circuit in *Northwest Public Service Co.* v. *Montana-Dakota Utilities Co.*, 181 F. 2d 19, 23 (CA8–1950), *affirmed*, 341 U.S. 246 (1951), used this section in support of its conclusion that: "The Commission can, no doubt, correct its own mistakes." [11]

II

The final sentence of Section 23(b) provides that when the Commission makes findings on declarations of intention that proposed construction would not affect the interests of interstate or foreign commerce, "permission is hereby granted to construct such dam or other project works in such stream upon compliance with State laws." Section 4(g) of the Act (16 U.S.C. 797(g)) authorizes the Commission "to issue such order as it may find appropriate, expedient, and in the public interest to conserve and utilize the navigation and water resources of the Nation," and Section 309 authorizes it "to perform any and all acts, and to prescribe * * * such orders * * * as it may find necessary or appropriate to carry out the provisions of this Act." The issue is whether Congress intended that the permission granted under Section 23(b) would bar the Commission from subsequently requiring licenses under Sections 4(g) and 309 when it becomes clear that the interests of interstate or foreign commerce will be affected.

The Commission and the courts have held that Congress did not have such an intent. The last of the Commission's findings on Petitioner's declarations of intention spelled out that "while there may be no basis at the time a declaration of intention is filed for requiring a license for a single development, such a development in combination with others in the watershed may later be found to affect the interests of interstate commerce and hence Federal, licenses might then be required for all the developments in the headwaters."[12] 8 FPC 1119. The Eighth Circuit came to a like conclusion in *Taum Sauk*. The court held that the evidence of record would not support a finding that the Taum Sauk development would affect downstream navigability on the Black River. *Union Electric Co.* v. *F.P.C.*, 326 F. 2d 535 (CA8–1964). Under the court's interpretation of Section 23(b) of the Act—that "interests of interstate or foreign commerce" referred only to navigation and water commerce—Union Electric would have received permission to build the development under the final sentence of the section.[13] Yet the court said (*id.* at 553):

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[10] *Cf., Pennsylvania Water & Power Co.* v. *F.P.C.*, 123 F. 2d 155, 162–163 (CADC–1941), cert. denied, 315 U.S. 806 (1941).

[11] *Cf., Public Service Commission of the State of New York* v. *F.P.C.*, 327 F. 2d 893, 897 (CADC–1964) (construing the parallel provision of the Natural Gas Act (15 U.S.C. 717o)); *Power Authority of the State of New York* v. *F.P.C.*, 339 F. 2d 269, 274 (CA2–1964).

> If in the operation of the project it later develops at any time in the future that the navigability of the Black River is impaired or threatened to be impaired, the Commission would have authority under § 4(g) of the Act to issue an appropriate order, including an order to prevent further operation of the project without a license.

Thus, as construed in these decisions, the permission granted under the final sentence of 23(b) plainly does not guarantee that the declarant will not be required to take licenses. And while the Commission and the Court addressed themselves to situations in which licenses are needed because of a change of facts, their conclusions would apply equally in situations in which licenses are needed to correct a mistake of law.

The above decisions, we believe, accurately construe Congress' intent. The obvious purpose of the final sentence of Section 23(b) was to make lawful the construction without licenses of certain hydroelectric developments on waters over which the United States exercises control. We assume that Congress by expressly authorizing the construction of these developments also implicitly authorized their operation and maintenance. Since Petitioner's developments were lawfully built and operated, any licenses issued as a result of the present proceeding would not be made retroactively effective to the date of construction.[14] We find nothing in the language of the section or its legislative history which shows that Congress also intended to authorize their operation and maintenance once the Commission has issued orders requiring licenses in response to a change in the factual situation or for the purpose of correcting a mistake of law.[15] We are constrained by a familiar rule of statutory construction to find that a Congressional permit does not include anything which is not expressly stated or necessarily implied. "[A]ll federal grants are construed in favor of the Government lest they be enlarged to include more than what was expressly included." *United States* v. *Grand River Dam Authority*, 363 U.S. 229, 235 (1960). *Accord, Charles River Bridge* v. *Warren Bridge*, 36 U.S. (11 Pet.) 420, 545-553

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[12] Petitioner states that after it was thus advised, it "proposed no more hydroelectric developments in the area." Its point appears to be that by proposing no more developments it could assure that it would not be required to take licenses on its constructed developments. But, of course, Petitioner is not the only entity which is entitled to propose developments and receive licenses in the Little Tennessee River basin.

[13] The Supreme Court, reviewing the Eighth Circuit's decision, assumed without holding that the lower court's decision was accurate with respect to effect on downstream navigability. It then reached and, as we have noted, reversed the lower court's restrictive reading of "the interests of interstate or foreign commerce." *F.P.C.* v. *Union Electric Co.*, 381 U.S. 90, 93–94 at note 6 (1965).

[14] On backdating see: *Central Maine Power Co.* v. *F.P.C.*, 345 F. 2d 875 (CA1–1965); *Bangor Hydro-Electric Co.* v. *F.P.C.*, No. 6614 (CA1–1966); *Public Service Company of New Hampshire*, 27 FPC 830 (1962); *Niagara Mohawk Power Corp.*, Project Nos. 2318, 2320, 2330, and 2424, November 15, 1965, 34 FPC 1298.

[15] When Section 23(b) was added to the Act in 1935 (49 Stat. 846), the final sentence was not discussed in the hearings, reports, or debates.

(1837); *Reichelderfer* v. *Quinn*, 287 U.S. 315, 321 (1932); *Northwest Paper Co.* v. *F.P.C.*, 344 F. 2d 41, 51 (CA8–1965). The rule applies with special force when grantees try to derive private rights of an indefeasible nature from a Federal grant under the commerce power. *Louisville Bridge Co.* v. *United States*, 242 U.S. 409, 417 (1917); *Bridge Co.* v. *United States*, 105 U.S. 470, 480 (1881). See generally 3 SUTHERLAND, STATUTORY CONSTRUCTION § 6402 (3d ed. 1943).

Moreover, Congress' objectives in Part I of the Act (1 U.S.C. 791–823) in general, and its objectives in the 1935 amendments in particular, would not be served by a restrictive reading of the Commission's power to require licenses for constructed developments. Congress' general purpose was to delegate to a specialized, expert body authority for continuing, comprehensive planning for the Nation's hydroelectric resources. *First Iowa Hydo-Electric Cooperative* v. *F.P.C.*, 328 U.S. 152, 180 (1946); *F.P.C.* v. *Union Electric Co.*, 381 U.S. 90, 98–101 (1965). Toward this end, Congress acted "to centralize the authority over such resources in one Government agency." *Northwest Paper Co.* v. *F.P.C.*, 344 F. 2d 47, 51 (CA8–1965); *accord*, 32 Op. Att'y Gen. 525 (1921). It gave the agency "sweeping authority and a specific planning responsibility." *Scenic Hudson Preservation Conference* v. *F.P.C.*, 354 F. 2d 608, 613 (CA2–1965). In short, the "legislation was designed to vest in the Commission for the future, the control and jurisdiction which Congress had previously exercised * * *" *Northwest Paper Co.* v. *F.P.C.*, *supra*, at 52.

Section 23(b), making mandatory the filing of declarations of intention, was added to the Act in 1935 to give the Commission more effective control of the hydroelectric industry. H.R. Rep. No. 1318, 74 Cong., 1st Sess. 25–26 (1935); S. Rep. No. 621, 74th Cong., 1st Sess. 46–47 (1935). At the same time, Section 4(g) was adopted to confer upon the Commission investigatory and enforcement powers "designed to strengthen the power of the Commission to protect the water resources entrusted to its care." H.R. Rep. No. 1318, 74th Cong., 1st Sess. 23 (1935).

We note, further, that the Commission, to issue an order requiring a license, need not show that the development is not presently making optimum use of the water-power resources. Section 309, by its terms, permits the Commission to require licenses simply on a showing that the developments are within jurisdictional criteria. And while Section 4(g) requires that orders issued pursuant to it be appropriate to conserve and utilize water-power resources, all licensing serves this purpose by retaining control for the future. See, for example, Sections 14 and 15 of the Act (16 U.S.C. 807, 808), providing that upon expiration of licenses the United States may take over developments or the Commission may relicense them to a new licensee.

III

Petitioner argues that requiring licenses for its developments would be a taking of property without compensation. Its contention appears to be that Section 14 of the Act (16 U.S.C. 807), relating to recapture of developments by the United States upon expiration of their licenses, can be applied only as an exercise of the United States' dominant navigation servitude, which is not involved when jurisdiction is based on *Taum Sauk*. Congress clearly intended that this section apply to all projects of this size. See Section 10(i) of the Act (16 U.S.C. 803 (i)). The Supreme Court has noted that the statutory scheme of Part I has been several times reviewed and approved by the courts. *First Iowa Hydro-Electric Cooperative* v. *F.P.C.*, 328 U.S. 152, 181 (1946). In any event, we must presume the constitutionality of the statutes which we administer. *Panitz* v.

District of Columbia, 112 F. 2d 39, 41–42 (1940) ; *East Ohio Gas Co.*, 1 FPC 586, 592 (1939) ; *Mississippi River Fuel Corp.*, 2 FPC 170, 175 (1940).

Petitioner's final argument, reached only if its other arguments are rejected, is that since power production at its developments is scheduled by TVA under the terms of the Fontana Agreements, the developments, even though attended by Petitioner's personnel, are operated by TVA and therefore are exempted by Section 26(a) of the TVA Act from requiring licenses from the Commission (16 U.S.C. 831y–1).[16] Petitioner's parent, Alcoa, previously made this argument on parallel facts in *Aluminum Company of America*, 13 FPC 14, 21–22 (1954). The Commission said in its decision in that case: "It was not the purpose of * * * Section 26(a) to take away from the Federal Power Commission its licensing authority over non-federal projects (See p. 22 of the March 28, 1935 Hearings before the House Committee on Military Affairs, on H.R. 6793, 74th Cong., 1st Sess.)." *Id.* at 22. The Commission held that the developments were operated by Alcoa or its subsidiaries, and not by TVA, and ordered that applications for licenses be filed.[17] *Id.* at 32. We adhere in the present proceeding to the holding in *Aluminum Company*.

While the petition for a declaratory order requests a hearing, it both states facts sufficient to reach a decision[18] and fails to raise any issue upon which additional evidence need be adduced. In these circumstances, a hearing would not be useful and is not necessary. As the Fourth Circuit said in *Virginia Electric and Power Co.* v. *F.P.C.*, 351 F. 2d 408, 410 (CA4–1965), "due process [does not] require a hearing where, as here, no factual controversy exists and the litigant seeks merely to controvert the legal principles upon which the Commission acts, something he can readily do by exercising his statutory right of appeal to the federal courts." *Cf.*, *F.C.C.* v. *WJR, The Goodwill Station, Inc.*, 337 U.S. 265 (1949).

The Commission further finds:

The Nantahala Power and Light Company's Nantahala, Thorpe, Queen's Creek, Tuckasegee, Cedar Cliff, Bear Creek, and Tennessee Creek hydroelectric developments in the Little Tennessee River basin are located on headwaters of navigable waters of the United States and generate energy for an interstate power system.

The Commission orders:

The Nantahala Power and Light Company shall file applications for licenses under the Federal Power Act for the above named hydroelectric developments within ninety days of the later of (1) issuance of the instant order, or (2) if the Company files a petition to review under Section 313 of the Act (16 U.S.C. 825*l*), entry of a final order by the Court of Appeals sustaining the Commission's orders.

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[16] Section 26(a) of the TVA Act provides in pertinent part:

The requirements of this section shall not be construed to be a substitute for the requirements of any other law of the United States or of any State, now in effect or hereafter enacted, but shall be in addition thereto, so that any approval, license, permit, or other sanction now or hereafter required by the provisions of any such law for the construction, operation, or maintenance of any structures whatever, except such as may be constructed, operated, or maintained by the Corporation, shall be required, not withstanding the provisions of the section.

[17] Alcoa and its subsidiaries filed a petition to review the Commission's order in the District of Columbia Circuit, but the petition was later withdrawn, and the review proceeding was dismissed. The licenses, which were issued in *Tapoco, Inc.*, 14 FPC 610 (1955), were accepted by the applicants.

[18] Section 1.7(c) of the Commission's Rules of Practice and Procedure requires that petitions for declaratory orders "include a complete statement of the facts and grounds prompting the petition * * *"

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

NATURAL GAS PIPELINE COMPANY OF AMERICA, DOCKET NO. CP66-393

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued July 18, 1966)

On May 31, 1966, Natural Gas Pipeline Company of America (Applicant), filed in Docket No. CP66-393 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of an additional daily contract quantity of 444 Mcf of natural gas to United Cities Company (United Cities), an existing customer of Applicant, all as more fully set forth in the application.

United Cities has requested an additional daily contract quantity of 444 Mcf of gas, commencing December 1, 1966, to meet the increase in firm requirements of the market which it serves in Vandalia, Illinois. Applicant states that its existing service agreements with United Cities, on file with the Commission, provide Maximum Daily Quantity of 3,200 Mcf under Rate Schedule G-1. By order issued May 27, 1966, 35 FPC 828, in Docket No. CP66-169, the Commission authorized Applicant to increase deliveries by 160 Mcf per day. With the additional volume for which authorization to deliver is requested herein, the Maximum Daily Quantity will become 3,804 Mcf per day.

Applicant will not require additional facilities to make the proposed sale.

After due notice no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on July 14, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, Natural Gas Pipeline Company of America, a Delaware corporation having its principal place of business in Chicago, Illinois, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of November 7, 1958, in Docket No. G-9966 (20 FPC 694).

(2) The proposed sale and delivery of natural gas by Applicant to United Cities as hereinbefore described, and as more fully described in the application, in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed sale and delivery of natural gas is required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a) and (e) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, authorizing the sale and delivery of up to 444 Mcf additional natural gas per day to United Cities, as hereinbefore described and as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a) and (e) of Section 157.20 of such Regulations.

(C) Applicant and United Cities shall execute a superseding service agreement in accordance with the Commission's Regulations reflecting the increase in daily contract quantity and file the same with the Commission within 30 days after the issuance of this order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

PUBLIC SERVICE COMPANY OF COLORADO, DOCKET NO. E-6460

ORDER TERMINATING PROCEEDING

(Issued July 18, 1966)

Representations upon behalf of Public Service Company of Colorado concerning that Company's public utility jurisdictional status under the Federal Power Act and willingness to comply with regulatory requirements of this Commission obviate the necessity for further proceedings in the above-entitled matter.

Public Service Company of Colorado, respondent in this proceeding, was directed to show cause why it should not comply with accounting and rate regulatory requirements arising under the Federal Power Act, Order To Show Cause and Setting Date For Hearing, 11 FPC 1370. By letter dated December 1, 1965, respondent confirmed its position conceding the Company's jurisdictional status and intent to comply with this Commission's Regulatory provisions.

The Commission orders:

The above-entitled proceeding is hereby terminated.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

SERVICE GAS PRODUCTS COMPANY (OPERATOR), DOCKET NOS. RI62-18 AND RI63-249

ORDER ACCEPTING AMENDED OFFER OF SETTLEMENT, REQUIRING FILING OF NOTICES OF CHANGE, TERMINATING PROCEEDINGS, AND REQUIRING REFUNDS

(Issued July 18, 1966)

On April 22, 1966, Service Gas Products Company (Operator) (Service) filed an offer of settlement, which it amended on July 1, 1966, relating to sales of natural gas made under its FPC Gas Rate Schedule Nos. 1, 2 and 3. The sales are to Lone Star Gas Company, and are made at Service's Doyle, Aylesworth and West Hoover processing plants in Stephens, Marshall and Garvin Counties, respectively, in the State of Oklahoma. The offer involves proposed increased rates which were filed by Service, suspended by the Commission for the statutory period, and thereafter made effective, subject to refund, by Service.

The proposed increased rate, being collected subject to refund, under Service's FPC Gas Rate Schedule Nos. 1 and 3 is 16.8¢ per Mcf of natural gas at 14.65 psia. It proposes a settlement rate of 14.0¢ per Mcf at 14.65 psia under each of such rate schedules. Service states that its purchase of natural gas from additional acreage from producers in the area of its plants, since it produces no gas itself, makes its proposal similar to those we considered and approved in *National Fuels Corporation, et al.*, Docket No. G–20426 (order issued May 24, 1965, 33 FPC 1048) *Warren Petroleum Corporation (Operator), et al.*, Docket No. G–20478, *et al.*, (order issued June 3, 1965, 33 FPC 1212) and *Signal Oil & Gas Company (Operator)*, Docket No. RI61–438, *et al.*, (order issued December 30, 1965, 34 FPC 1608). Additionally, Service proposes to amend its contracts with Lone Star to delete the periodic and favored-nation rate provisions from its Rate Schedule Nos. 1 and 3 and substitute therefor the 14.0¢ per Mcf settlement rate until April 1, 1969, with 1.0¢ per Mcf periodic increases at five year intervals thereafter. Consideration of the circumstances in these proceedings causes us to find that the principles we enunicated in similar proceedings appertain here and we shall therefore approve Service's proposal in regard to its FPC Gas Rate Schedule Nos. 1 and 3.

Service's proposal regarding its FPC Gas Rate Schedule No. 2, under which it is presently charging and collecting, subject to refund, a rate of 12.0¢ per Mcf of natural gas at 14.65 psia, is that such rate be the settlement rate. It avers that the same circumstances set forth by us in approving the three settlement proposals cited above justify the proposed settlement rate. Data supplied by Service showing delivery volumes of natural gas to Lone Star, and the sources of the same since 1954, cause us to find that Service's averment is correct, and we shall approve the proposed settlement rate under its FPC Gas Rate Schedule No. 2.

Service proposes a moratorium on increased rate filings under all of its filed FPC Gas Rate Schedules until April 1, 1969, except, however, it reserves the right to file for contractually authorized tax reimbursement increases during such moratorium period.

Under the settlement proposal, Service proposes to refund all amounts collected, subject to refund, above the settlement rates, with applicable interest, from May 1, 1962, to the date of issuance of this order. This accords with the refund method we set forth for small producers in our order in *Jack W. Grigsby (Operator), et al.*, 32 FPC 529, and we find it proper. The total amount collected subject to refund through December 31, 1965, is approximately $1,106,000, and of that Service will refund approximately $479,000, with applicable interest, and retain approximately $53.000 of the amounts collected above the settlement rates.

We believe that Service's settlement proposal, as amended, is in the public interest and shall approve the same. However, we desire to make it clear that acceptance of Service's offer of settlement, as amended, shall not be construed as approval of any future increased rate that may be filed by Service under the subject rate schedules and is without prejudice to any findings or order of the Commission in any future proceeding involving Service's rates and rate schedules. Additionally, for all of the reasons set forth in *Humble Oil & Refining Company*, Docket No. G–9287, *et al.*, 32 FPC 49, we shall require Service to deposit the refund monies in a special escrow account or to commingle the retained—refunds with its general assets pending future action of the Commission.

The Commission finds:

The proposed settlement of the above-designated proceedings, on the basis described herein, as more fully set forth in the offer of settlement, as amended, filed with the Commission by Service on April 22, 1966, is consistent with the Statement of General Policy No. 61–1, as amended, 18 CFR 2.56, and approval thereof as made effective and hereinafter ordered is in the public interest and is appropriate to carry out the provisions of the Natural Gas Act.

The Commission orders:

(A) The offer of settlement, as amended, filed with the Commission by Service on April 22, 1966, is approved in accordance with the provisions of this order.

(B) Service shall file, within 30 days from the date of issuance of this order, notices of change in rates under its FPC Gas Rate Schedules to reflect the settlement rates and executed contractual amendments in accordance with the terms of its settlement proposal, as amended, and as approved herein. The notices of change and the contractual amendments shall be submitted in accordance with Part 154 of the Commission's Regulations under the Natural Gas Act.

(C) Service shall compute the difference between the rates collected subject to refund and the settlement rate for the sales for which it proposes to make refunds with applicable interest to the date of this order, and shall within 45 days from the date of issuance of this order submit a report to the Commission, with a copy to Lone Star, setting out the amount of refunds (showing separately the principal and applicable interest) the bases used for such determination, the period covered, and ten days thereafter shall submit to the Commission a copy of a letter from Lone Star agreeing to the correctness of such amounts.

(D) Service shall retain the amounts shown in the report required under paragraph (C) above, subject to further action of the Commission directing the disposition of those amounts.

(E) Service may deposit the retained refunds in a special escrow account, and shall tender for filing within 60 days of the date of issuance of this order an executed Escrow Agreement, conditioned as set out below, accompanied by a certificate showing service of a copy thereof upon Lone Star.

Unless notified to the contrary by the Secretary within 30 days from the date of filing thereof, the escrow agreement shall be deemed to be satisfactory and to have been accepted for filing. The escrow agreement shall be entered into between Service and any bank or trust company used as a depository of funds of the United States Government and the agreement shall be conditioned as follows:

(1) Service, the bank or trust company, and the successors and assigns of each, shall be held and formally bound unto the Federal Power Commission for the use and benefit of those entitled thereto, with respect to all amounts and the interest thereon deposited in the special escrow account, subject to such agreement, and such bank or trust company shall be bound to pay over to such person or persons as may be identified and designated by final order of the Commission and in such manner as may be therein specified, all or any portion of such deposits and the interest thereon.

(2) The bank or trust company may invest and reinvest such deposits in any short-term indebtedness of the United States or any agency thereof, or in any form of obligation guaranteed by the United States which is, respectively, payable within 120 days as the said bank or trust company in the exercise of its sound discretion may select.

(3) Such bank or trust company shall be liable only for such interest as the invested funds described in Paragraph (2) above will earn and no other interest may be collected from it.

(4) Such bank or trust company shall be entitled to such compensation as is fair, reasonable and customary for its services as such, which compensation shall be paid out of the escrow account to such bank or trust company. Said bank or trust company shall likewise be entitled to reimbursement for its reasonable expenses necessarily incurred in the administration of this escrow account, which reimbursement shall be paid out of the escrow account.

(5) Such bank or trust company shall report to the Secretary quarterly, certifying the amount deposited in the bank or trust company for the quarterly period.

(F) If Service elects to commingle the retained refunds with its general assets and use them for business purposes, it shall notify the Secretary of the Commission of its intention so to do within sixty days of the issuance of this order, and shall pay interest on such monies at the rate of 5¾% per annum from the date of issuance of this order to the date on which they are paid over to the person or persons ultimately determined to be entitled thereto by final order or orders of the Commission.

(G) Upon notification by the Secretary of the Commission that Service has complied with the terms and conditions of this order, the proceedings in Docket Nos. RI62-18 and RI63-249 shall terminate all without further order of the Commission.

(H) The acceptance by the Commission of Service's offer of settlement, as amended, is without prejudice to any findings or determinations that may be made in any proceeding now pending, or hereafter instituted by or against Service and is without prejudice to claims or contentions which may be made by Service, the Commission staff, or any affected party hereto, in any proceedings.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

CHRISTIE, MITCHELL & MITCHELL COMPANY, ET AL., DOCKET NO. G-20001, RI61-123, RI63-23, RI63-398 AND RI63-440; GEORGE MITCHELL & ASSOCIATES, INC., AGENT FOR B. V. CHRISTIE, ET AL., RI64-251

ORDER GRANTING MOTION FOR PARTIAL RELEASE OF ESCROWED FUNDS

(Issued July 19, 1966)

The above-named respondents (Movants) on June 2, 1966, filed a motion requesting that the Commission in the above-captioned proceedings authorize the release of amounts attributable to the interest of Mitchell & Mitchell Gas & Oil Corporation (M&M) previously deposited under escrow agreements in said proceedings with The Chase Manhattan Bank of New York City, and permit M&M to collect subject to refund under an agreement and undertaking[1] as well as a surety bond in the amount of $48,213.39, all amounts attributable to its interest in said proceedings.

In support of its motion, Movants state that of the total amount of $91,549.47 attributable to the interest of M&M in these proceedings which is held pursuant to the escrow agreement, $48,213.39 represents the amount that was collected in excess of the last firm rate approved by the Commission or in excess of the applicable increased rate ceiling. Movants therefore propose to file a surety bond in such amount, in addition to the agreement and undertaking, to assure refunds herein. Movants cite the Commission's action granting similar requests in *Dorchester Gas Production Co.*, Docket No. G–18671, order issued June 16, 1965, 33 FPC 1265, and *George Mitchell & Associates, Inc., Agent*, Docket No. RI61–239, *et al.*, order issued December 27, 1965, 34 FPC 1544.

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[1] Concurrently with its motion, Movants tendered for filing an agreement and undertaking in these proceedings.

Movants propose herein only the release of those amounts deposited in escrow which relate to the interest of M&M. The escrow agreements in the above-entitled proceedings will remain in effect as to the other interests covered by the rate increases of Movants involved herein. Consent of the respective pipeline purchasers to the instant proposal was set forth in attached letters to the motion.

The Commission finds:

Good cause exists for granting the Movants' motion filed herein on June 2, 1966, as hereinafter provided.

The Commission orders:

(A) Upon notification by the Secretary of the Commission that M&M has complied with the provisions of paragraph (C) hereof, The Chase Manhattan Bank of New York as trustee under the escrow agreements in the above-entitled proceedings shall release forthwith to M&M any amounts attributable to M&M's interest in these proceedings which have been deposited with it. Except as specifically provided herein, these escrow agreements shall remain in full force and effect.

(B) The agreement and undertaking filed by M&M in these proceedings is accepted.

(C) Within 30 days of the date of issuance of this order, M&M shall file an acceptable surety bond in the amount of $48,213.39 in accordance with the form attached hereto.*

(D) Upon the filing of an acceptable surety bond, M&M may collect all future amounts attributable to its interest in the above-entitled proceedings pursuant to such bond and the agreement and undertaking accepted herein.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

MCALESTER FUEL COMPANY, DOCKET NOS. RI62–300, RI63–103, RI64–162, RI65–258 AND RI66–88

ORDER ACCEPTING OFFER OF SETTLEMENT, REQUIRING FILING OF NOTICE OF CHANGE AND CONTRACT AMENDMENT, REQUIRING REFUNDS, AND TERMINATING PROCEEDINGS

(Issued July 19, 1966)

On May 2, 1966, McAlester Fuel Company (McAlester) submitted an offer of settlement in these proceedings pursuant to Section 1.18(e) of the Commission's Rules of Practice and Procedure involving proposed increased rates for a sale of natural gas in the Fort Lynn Field, Miller County, Arkansas, to Texas Eastern Transmission Corporation (TETC). The rate presently being charged and collected for said sale is 15.075¢ per Mcf of natural gas at 14.65 psia. McAlester proposes a settlement rate of 15.0¢ per Mcf of natural gas at 14.65 psia, and to amend its contract with TETC to eliminate all price escalation provisions, except the provision relating to future tax reimbursement. McAlester will refund all monies collected subject to refund above the settlement rate, with applicable interest.

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* Omitted in printing.

McAlester's proposal is consistent with the provisions of the Second and Ninth Amendments to the Commission's Statement of General Policy No. 61-1 (18 CFR 2.56) and we shall approve the same.

However, we desire to make it clear that acceptance of McAlester's offer of settlement shall not be construed as approval of any future increased rate filed in accordance with its reservations of the right to file increases to cover future tax increases, and is without prejudice to any findings or order of the Commission in any future proceedings, including area rate or other similar proceedings, involving McAlester's rate and rate schedule.

The Commission finds:

The proposed settlement by McAlester of the above-designated proceedings on the basis described herein, as more fully set forth in the offer of settlement filed with the Commission by McAlester on May 2, 1966, is in the public interest and appropriate to carry out the provisions of the Natural Gas Act and should be approved and made effective as hereinafter ordered.

The Commission orders:

(A) The offer of settlement filed with the Commission by McAlester on May 2, 1966, is hereby approved in accordance with the provisions of this order.

(B) McAlester shall file, within 30 days from the date of issuance of this order, a notice of change in rate to 15¢ per Mcf and an executed contract amendment, as specified in its offer of settlement, to its FPC Gas Rate Schedule No. 3 eliminating the price escalation provisions therefrom. The notice of change and the contractual amendment shall be submitted in accordance with Part 154 of the Commission's Regulations under the Natural Gas Act.

(C) McAlester shall compute the difference between the rates collected subject to refund in the above-entitled proceedings and the settlement rate for the sales of natural gas to TETC involved herein with applicable interest to the date of this order, and shall within 30 days from the date of issuance of this order submit a report to the Commission, with a copy to TETC, setting out the amount of refunds (showing separately the principal and applicable interest) the bases used for such determination, the period covered, and ten days thereafter shall submit to the Commission a copy of a letter from TETC acknowledging receipt of such refund monies and agreeing to the correctness thereof.

(D) Upon notification by the Secretary of the Commission that McAlester has complied with the terms and conditions of the order, the rate and charge of 15¢ per Mcf at 14.65 psia, set forth in its settlement proposal shall be effective as of the date of issuance of this order, and the above designated proceedings shall be deemed terminated.

(E) The acceptance by the Commission of McAlester's offer of settlement is without prejudice to any findings or determinations that may be made in any proceeding now pending, or hereafter instituted by or against McAlester, including area rate or other similar proceedings.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

INTERNATIONAL PAPER COMPANY, PROJECT NO. 2375

ORDER APPROVING REVISED EXHIBIT L PROJECT DRAWING

(Issued July 20, 1966)

On March 28, 1966, International Paper Company, licensee for Project No. 2375, filed for Commission approval a revised Exhibit L drawing for the project located on the Androscoggin River, Maine.

The drawing shows an emergency reconstruction of a portion of the Otis Mill dam (a timber crib structure) made necessary by the development of considerable leakage in the planking and crib work. The reconstruction was accomplished between October, 1964 and November, 1965, and Commission staff advises that the reconstruction was completed in a satisfactory manner.

The U.S. Corps of Engineers has approved the tracing of the drawing insofar as the interests of navigation are concerned.

The Commission finds:

The following described revised Exhibit L drawing conforms to the Commission's rules and regulations and should be approved as part of the license for the project, and license Exhibit L (FPC No. 2375-15), which has been superseded, should be eliminated from the license for the project.

Exhibit	Showing	FPC No.
L, Sheet 7	Details of Dam & Forebay	2375-21

The Commission orders:

The revised Exhibit L drawing described in the above finding is hereby approved as part of the license for Project No. 2375, and the superseded Exhibit L described in the same finding is hereby eliminated from the license for the project.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

MISSISSIPPI POWER COMPANY, DOCKET NO. E-7112

ORDER RULING ON ISSUES CONTAINED IN PRESIDING EXAMINER'S SUBMISSION OF ISSUES AND RULINGS

(Issued July 20, 1966)

On July 15, 1963, 30 FPC 198, the Commission issued an order directing Mississippi Power Company (Mississippi Power) to show cause why a dual rate provision in its filed rate schedules for service to three cooperatively owned wholesale electric customers is not unlawful within the meaning of Sections 205 and 206 of the Federal Power Act.

On August 31, 1965, 34 FPC 658, the Commission: (1) amended its order of July 15, 1963 to include additional rate schedules, (2) ordered a public hearing concerning the lawfulness of the dual rate provision, and (3) ordered that a prehearing conference be held before a hearing examiner of the Commission on September 20, 1965, for the purpose of narrowing issues and setting dates for submittal of testimony and cross examination of witnesses.

On April 21, 1966, the Presiding Examiner, Seymour Wenner, submitted to the Commission: "Presiding Examiner's Submission of Issues and Rulings for Affirmation and Modification Thereof." The principal reason for the Examiner's somewhat unusual action in this proceeding seems to derive principally from the following statement in the Commission's order of August 31, 1965: "The order does not question whether Mississippi Power's schedules of filed rates and charges for service to cooperatives are unjust, unreasonable and unlawful for reasons of rate level." According to the Examiner:

> If the surcharge is found to be unreasonable, the Commission then has to determine the remedy—the future reasonable rate. In making this determination the question arises whether the Commission is obliged on request of a party to consider what the reasonable rate level should be, and whether cost of service evidence to make this determination is admissible?

The Examiner reaches the following conclusions:

> a. The issue of the general level of rates or of the surcharge is excluded from the proceeding. Cost of service evidence will not be admissible since the thrust of such evidence is to support a change in the rate level * * *
>
> b. If the surcharge is found to be unreasonable in this proceeding and ordered to be modified or eliminated, changes in the rates will be permitted so that the rate level will remain the same as before. Evidence relating to the impact of changing the surcharge and the maintenance of the existing rate level will be admissible.

We agree with the Examiner that cost of service evidence to show the general level either of the Company's rates to the Cooperatives or of the surcharge is neither necessary nor useful in this proceeding, either on the issue of lawfulness of the surcharge or in the determination of an appropriate remedy if the surcharge is found to be unlawful. As we stated in our order of August 31, 1965, we do not question the level of Mississippi Power's rates in this proceeding. We seek to determine only whether the dual form of the rate may operate in such a way as to make that rate form unjust, unreasonable, unduly discriminatory or preferential.

We do not intend in any order issued as a part of this proceeding to change the level of Mississippi Power's wholesale for resale rate. We do not believe that it is necessary or in the public interest to embark upon a full blown rate proceeding in determining this rate design question. We may assume for purposes of making this determination that the return resulting from both rates would be within the zone of reasonableness if either were considered separately.

We have determined that the rate design question raised here can be handled most expeditiously through a separate hearing. In no way does this procedure deprive the Company of any rights under the Federal Power Act to a rate level hearing in another proceeding if it chooses to avail itself of the procedures available under the Act.

The Company may at any time file rate changes pursuant to § 205(d) of the Federal Power Act unless precluded from doing so by contractual commitments. In addition, any person, including the Company, may at any time raise by complaint the issue of lawfulness of the rate level and request a hearing thereon before the Commission in another proceeding.

We see no necessity for determining at this time what the appropriate remedy will be if the surcharge is found to be unlawful. Specifically, we need not now decide whether, if the surcharge is modified or eliminated, there are any circumstances which would make it inappropriate to allow the Company to file new rates permitting it to meet the same overall revenue requirements as presently provided for in the Company's filed and effective rate schedules. It is sufficient at this stage to indicate that the intervenor cooperatives are, in our opinion, not correct in their contention that the only permissible remedy, in the case of a finding of unlawfulness of the surcharge, is its complete exclusion.

The Examiner has correctly interpreted our orders of June 15, 1963 and August 31, 1965, and the procedure proposed by him is consistent with those orders.

The Commission orders:

(A) The Examiner's conclusions "a" and "b", as set forth on page 134 above, to the extent consistent with the above discussion, are affirmed.

(B) Mississippi Power's motion for oral argument on the Presiding Examiner's submission of issues and rulings is hereby denied.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

NEKOOSA-EDWARDS PAPER COMPANY, PROJECT NO. 2291

ORDER APPROVING REVISED PROJECT EXHIBIT DRAWINGS

(Issued July 20, 1966)

On October 12, 1965, Nekoosa-Edwards Paper Company, licensee for Project No. 2291, filed an application for Commission approval of revised drawings of Exhibits J, K, and L to show slight modifications in the project tailrace caused by excavation to accommodate piers supporting an addition to a non-project mill building which will extend over the tailrace approximately 50 feet. The project is located on the Wisconsin River in the Village of Port Edwards, Wood County, Wisconsin.

The licensee submitted with the application prints of revised drawings of Exhibit J, sheet 1 of 1; Exhibit K, sheet 1 of 1; and Exhibit L, sheet 1 of 6; showing the modifications in the tailrace, and authorized Commission staff to change similar license drawings to show the modifications.

The U.S. Corps of Engineers has advised that the plans of the project structures, modified as shown on the prints, are satisfactory insofar as the interests of navigation are concerned.

The Commission finds:

The following described exhibits, revised by Commission staff to show the above-mentioned modifications in the project tailrace, conform to the Commission's rules and regulations and should be reapproved as part of the license for the project.

Exhibit J (FPC No. 2291-1) General Map of Project Area.
Exhibit K (FPC No. 2291-2) Project Boundary Location.
Exhibit L (FPC No. 2291-3) General Design Drawings.

The Commission orders:

The revised exhibits described in the above finding are hereby reapproved as part of the license for Project No. 2291.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

SOUTH CAROLINA ELECTRIC & GAS COMPANY, PROJECT NO. 516

ORDER APPROVING AREAS RESERVED FOR PUBLIC USE AND FUTURE RECREATIONAL DEVELOPMENT, REVISING EXHIBIT K AND GRANTING AUTHORIZATION FOR DISPOSAL OF PROJECT LANDS

(Issued July 20, 1966)

On May 9, 1966, South Carolina Electric & Gas Company, Licensee for Project No. 516, known as the Saluda Project and located on the Saluda River at Dreher's Shoals, South Carolina, filed for Commission approval a set of six drawings showing lands which have been reserved within and without the present project boundary for future development for recreational use. The reservation of these lands was made by Licensee in response to a request by the Commission in a letter dated January 5, 1966. The six drawings (FPC Nos. 516-204 through 516-209) identify six areas totaling 110.92 acres, of which 51.12 acres located outside the existing project boundary, which Licensee proposes to reserve for future public recreational development at the project. In addition to these areas, the Licensee has advised that all islands in the reservoir will be reserved for public use. The South Carolina Wildlife Resources Department, in a letter dated May 24, 1966, reported that the six areas to be reserved have excellent recreational potential and would be suitable and sufficient to meet the foreseeable requirements of public outdoor recreation in the project area. It appears that these areas which are in addition to those in Licensee's public access plan approved by Commission order issued January 5, 1966, 35 FPC 37, are adequate for future recreational requirements.

Licensee has further requested permission to dispose of certain interests in lots lying wholly or partly within the project boundary as described on 4 subdivision maps which it submitted. These lots are not located within existing or proposed recreational areas and as indicated by the South Carolina Wildlife Department, their disposal would not adversely affect recreational development at the project.

In a letter to the Licensee, dated January 5, 1966, we requested that it reserve certain areas for future recreational development, in addition to those areas approved by Commission order, issued January 5, 1966, indicating that it would facilitate future disposals in certain interests in other project lands lying above the 360 foot contour. In view of the Licensee's compliance with the Commission's request, we shall authorize Licensee to dispose of certain interests in project lands outside of the existing and proposed recreational areas, including those lots referred to above, excepting those lands below the 360 foot contour and those occupied by and required for the maintenance of the dam and powerhouses. Licensee shall incorporate in any agreement or instrument effecting such disposal a condition reserving to the Licensee, its successors and assigns the right to use the lands for project purposes; and a covenant or condition, insuring that the use of such lands will not endanger health, create a nuisance or otherwise be incompatible with overall project recreational use in accordance with Paragraph C of the Commission's Order No. 313, issued December 27, 1965, 34 FPC 1546. The Licensee shall file with the Commission executed copies of the instruments of conveyance together with plats of such lands to enable the Commission staff to make appropriate notations upon the Exhibit K.

The Commission finds:

(1) The drawings (FPC 516-204 through 516-209) submitted by Licensee identifying six areas for future public recreational development should be approved as part of the license.

(2) Exhibit K should be amended to identify the six areas reserved for future public recreational developments and to revise the project boundary to include these areas.

(3) It is appropriate to grant the Licensee authorization to dispose of interests in lands not utilized for project purposes subject to certain conditions as hereinafter provided.

The Commission orders:

(A) The proposed reservation of the six areas described in finding (1), and the existing islands within the project, for public use and future recreational development as part of the license is approved.

(B) The drawings identified in finding (1) above are approved as part of the license for Project No. 516.

(C) Exhibit K drawings FPC Nos. 516–63, –72, –91, –95, –96, and –121 are amended to identify the six areas identified in finding (1), and to revise the project boundary to include these six areas and the eight public access areas approved by the Commission in its order of January 5, 1966.

(D) Licensee is authorized to dispose of interests in project lands outside of the recreational areas, excepting those lands below the 360 foot contour and those occupied by and required for the maintenance of the dam and powerhouse; Provided that Licensee incorporate in any agreement or instrument affecting such disposal a condition reserving to the Licensee its successors and assigns, the right to use the lands for project purposes, and a covenant or condition insuring that the use of such lands will not endanger health, create a nuisance, or otherwise be incompatible with overall project recreational use in accordance with paragraph (C) of the Commission's Order No. 313, issued December 27, 1965.

(E) This order shall become final 30 days from the date of its issuance unless application for rehearing shall be filed as provided in Section 313(a) of the Act, and failure to file such an application shall constitute acceptance of the foregoing order. In acknowledgment of this acceptance of the foregoing order, it shall be signed for the Licensee and returned to the Commission within 60 days from the date of issuance of this order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

TENNESSEE GAS PIPELINE COMPANY, A DIVISION OF TENNECO INC., DOCKET NOS. G–165, ET AL. AND CP60–57, ET AL.

FINDINGS AND ORDER AMENDING ORDERS OF THE COMMISSION TO SUBSTITUTE NAME

(Issued July 20, 1966)

On April 18, 1966, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (TGP) filed a petition to amend the existing orders issued by the Commission in Docket No. G–165, *et al.*, at various times from 1941 through 1966. On the same day, TGP filed a petition to amend applications in matters pending, at the time of said filing, before the Commission in Docket No. CP60–57, *et al.*, such applications having been filed at various times from 1960 to 1966. TGP requests that the applications, certificates of public convenience and necessity, orders, and any other proceeding, file or record before the Commission, whether or not specifically listed in the subject petitions, relating to Tennessee Gas Transmission Company be amended to reflect the substitution of the name Tennessee Gas Pipeline Company, a Division of Tenneco Inc., for the name Tennessee Gas Transmission Company, all as more fully set forth in the subject petitions to amend.

TGP states that on April 11, 1966, pursuant to a resolution of its Board of Directors, Tennessee Gas Transmission Company filed with the Secretary of State of the State of Delaware (the state of incorporation of Tennessee Gas Transmission Company) an amendment to its corporate charter, changing the name of the corporation from Tennessee Gas Transmission Company to Tenneco Inc. The petitions to amend recite that Tenneco Inc. is the same corporate entity for all purposes and in all respects as Tennessee Gas Transmission Company, except for the corporate name. There has been no change in assets, liabilities or capitalization of the corporation.

Pursuant to a resolution adopted on April 8, 1966, by the Board of Directors of Tennessee Gas Transmission Company, now to be called Tenneco Inc., it was ordered that the general supervision and direction of the pipeline interests of Tenneco Inc. and its several subsidiaries be delegated to a newly formed subsidiary, whose Vice Chairman of the Board and President and Vice Presidents were thereby authorized to act as agents and attorneys in-fact for Tennessee Gas Pipeline Company, a division of Tenneco, Inc. *inter alia*, to enter into and execute any and all contracts, agreements or other instruments relating to the business and affairs of the company. The certificate of incorporation of this newly formed subsidiary was filed with the Secretary of State of the State of Delaware in the name of Miwalk Corporation on March 17, 1966; on April 11, 1966, a certificate of amendment was filed changing the name of the new subsidiary corporation to Tennessee Gas Transmission Company. The Commission has been advised by Tenneco Inc., that the newly formed Tennessee Gas Transmission Company is a management and administrative organization set up to manage the pipeline activities of Tenneco Inc., and its subsidiaries, and that there are no present intentions for the newly formed company to own any properties, have any salaried employees, to arrange any financing or to have any income.

Due notice of the filing of the petitions to amend and opportunity for hearing thereon has been given by publication in the Federal Register on May 24, 1966 (31 F.R. 7492). No protest or petition to intervene has been filed in this proceeding.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's orders issued in Docket No. G–165, *et al.*; the pending matters at the time of the filing of the subject petition in Docket No. CP60–57, *et al.*, and any other applications, certificates of public convenience and necessity, orders, other proceeding, file or record before the Commission, whether or not specifically listed in the subject petitions, relating to Tennessee Gas Transmission Company be amended as hereinafter ordered.

The Commission orders:

(A) The Commission's orders issued in Docket No. G–165, *et al.*; the pending matters at the time of the filing of the subject petition in Docket No. CP60–57, *et al.*, and any other applications, certificates of public convenience and necessity, orders, other proceeding, file or record before the Commission, whether or not specifically listed in the subject petitions, relating to Tennessee Gas Transmission Company are amended to reflect the substitution of the name Tennessee Gas Pipeline Company, a Division of Tenneco Inc., for the name Tennessee Gas

Transmission Company, all as hereinbefore described and as set forth in the subject petitions to amend.

(B) In all other respects the matters amended by this order shall remain in full force and effect.

(C) Nothing herein shall be taken as indicating any determination as to the status of the newly formed Tennessee Gas Transmission Company (successor to Miwalk Corporation) under the Natural Gas Act.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

TEXAS EASTERN TRANSMISSION CORPORATION, DOCKET NO. CP66-399

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND ACCEPTING TARIFF SHEET FOR FILING

(Issued July 20, 1966)

On June 6, 1966, Texas Eastern Transmission Corporation (Applicant) filed in Docket No. CP66-399 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to render Annual Contract Quantity (ACQ) gas service to its customers in accordance with the provisions of proposed revised Article 13 of the General Terms and Conditions of Applicant's FPC Gas Tariff, Second Revised Volume No. 1, all as more fully set forth in the application in this proceeding.

Applicant seeks authorization to permit, pursuant to the proposed changes in its Tariff, a customer who purchases ACQ gas, and who operates an integrated system in two of Applicant's rate zones, to take such ACQ gas in either rate zone provided that Applicant's ability to meet its other system requirements is not impaired thereby. No change or addition to existing facilities is proposed.

Applicant has tendered for filing its Second Revised Sheet No. 77 to its FPC Gas Tariff, Second Revised Volume No. 1, providing for the proposed change in ACQ service.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on July 14, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Texas Eastern Transmission Corporation, a Delaware corporation having its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of October 10, 1947, in Docket No. G-880 (6 FPC 148).

(2) The proposed change in ACQ gas service hereinbefore described, as more fully described in the application in this proceeding, is subject to the jurisdiction of the Commission and to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The proposed change in ACQ gas service is required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a) and (e) of Section 157.20 of such Regulations.

(6) Applicant's Second Revised Sheet No. 77 to its FPC Gas Tariff, Second Revised Volume No. 1, should be accepted for filing to become effective on the date this order issues.

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Applicant, Texas Eastern Transmission Corporation, to render ACQ gas service to its customers in accordance with the change proposed in its FPC Gas Tariff, Second Revised Volume No. 1, as hereinbefore described, all as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a) and (e) of Section 157.20 of such Regulations.

(C) Applicant's Second Revised Sheet No. 77 to its FPC Gas Tariff, Second Revised Volume No. 1, is accepted for filing to become effective on the date this order issues.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

CHUGACH ELECTRIC ASSOCIATION, INC., PROJECT NO. 2170

ORDER APPROVING PROJECT EXHIBIT K DRAWINGS AND FIXING ANNUAL LAND CHARGES FOR TRANSMISSION LINE RIGHTS-OF-WAY

(Issued July 21, 1966)

On September 8, 1965, Chugach Electric Association, Inc., licensee for Project No. 2170, known as Cooper Lake Project, situated on Cooper Lake, Cooper Creek and Kenai Lake, Alaska, filed for Commission approval nine Exhibit K drawings showing the center line surveys and the rights-of-way for the 69 kv transmission line from the Cooper Lake Project powerhouse to the Kasilof (Homer) substation via the Quartz Creek substation and the 115 kv transmission line from Quartz Creek substation to the Anchorage substation—both of which lines are now operating. The transmission lines occupy lands of the United States within the Chugach National Forest and other lands of the United States.

In the original license for the project, issued May 27, 1957, 17 FPC 759, and made effective as of May 1, 1957, the Commission found that the then proposed 69 kv and 115 kv transmission lines are parts of the project within the meaning of Section 3(11) of the Federal Power Act, and should be included in the license for the project, and the lines were included in the license. However, acceptable Exhibit K drawings showing the specific center line locations of the lines were not received until the September 8, 1965 filing. The Exhibit K drawings show that the 69 kv line occupies a 6.3 mile long 100 foot wide right-of-way on lands of the United States from Cooper Lake powerhouse to the Quartz Creek substation and a 59.01 mile long 100 foot wide right-of-way on lands of the United States from the latter substation to the Kasilof (Homer) substation, and that the 115 kv line occupies an 86.47 mile long 100 foot wide right-of-way on lands of the United States. The annual charges under the license for the occupancy by the lines of a total of 151.78 miles of rights-of-way on lands of the United States are computed as being $1,214.24. No annual charge for such occupancy has been fixed in the license for the project.

The Commission finds:

(1) Exhibit K (FPC Nos. 2170–25 through –33) conforms to the Commission's rules and regulations and should be approved as part of the license for the project, and license Exhibit J (FPC No. 2170–14), which has been superseded, should be eliminated from the license for the project.

(2) The amount of annual charges to be paid under the license for recompensing the United States for the use, occupancy, and enjoyment of its lands for transmission line rights-of-way is reasonable as hereinafter fixed and specified.

The Commission orders:

(A) Exhibit K (FPC Nos. 2170–25 through –33) is hereby approved as part of the license for Project No. 2170, and superseded Exhibit J (FPC No. 2170–14) is hereby eliminated from the license for the project.

(B) Subparagraph (iii) of Article 29 of the license is hereby modified to read as follows:

(iii) For the purpose of recompensing the United States for the use, occupancy, and enjoyment of its lands used for transmission line rights-of-way, $1,214.24, effective as of May 1, 1957.

(C) This order shall become final 30 days from the date of its issuance unless application for rehearing shall be filed as provided in Section 313(a) of the Act, and failure to file such an application shall constitute acceptance of this order. In acknowledgment of the acceptance of this order, it shall be signed for the licensee and returned to the Commission within 60 days from the date of issuance of this order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

SACRAMENTO MUNICIPAL UTILITY DISTRICT, PROJECT NO. 2101

ORDER APPROVING PROJECT EXHIBITS AND ADJUSTING AUTHORIZED INSTALLED CAPACITY AND ANNUAL CHARGES

(Issued July 21, 1966)

On April 4, and May 24, 1966, respectively, Sacramento Municipal Utility District, licensee for the Upper American River Project No. 2101, filed for Commission approval Exhibit M–6 and revised Exhibit L drawings. The project is located on the upper Rubicon River and South Fork American River and tributaries, California.

The exhibit and drawings show the 71,250 kw generating unit No. 2 proposed to be installed in the constructed Camino powerhouse as occurring by February or March of 1968 rather than during construction of the Brush Creek facilities originally planned for completion in May 1968. The licensee plans to delay until the early 1970's construction of the facilities which will provide diversion of Brush Creek waters and a forebay reservoir located on Brush Creek near the Camino tunnel outlet to permit additional peaking capability. Approximately 80 percent of the nameplate rating of generating units Nos. 1 and 2 in Camino powerhouse will be usable without the Brush Creek forebay. The Camino development of Project No. 2101 consists of a concrete arch dam, a reservoir having 650 acre feet of usable storage, a power tunnel, a penstock, and a powerhouse containing generating unit No. 1 of 71,250 kw, with provision for generating unit No. 2.

While the Camino tunnel is designed to convey 1,200 cfs in its upper 24,100 feet and 2,000 cfs in its lower 1,900 feet to provide for the originally planned future Brush Creek forebay, the upper portion of Camino tunnel can convey higher flows but with increased head losses, and the licensee plans a maximum flow of 1,700 cfs upon the installation of generating unit No. 2 by February or March of 1968. Upon the installation of generating unit No. 2, the dependable capacity of Camino power plant will be increased from 75,000 kw at 1,000 cfs to 114,000 kw at 1,700 cfs, or an additional dependable capacity of 39,000 kw. However, because of the high head losses in the upper tunnel associated with flows in excess of the designed flow, the licensee plans normally to operate Camino powerplant below 114,000 kw. Our staff estimates that Camino will be able to generate about 100,000 kw at 1,400 cfs, the hydraulic capacity of the licensee's upstream Jaybird plant.

The licensee estimates that the costs for purchasing and installing generating unit No. 2 and associated equipment at the earlier date will be $2,500,000, based on actual bid prices for major equipment items. Using fixed charges amounting to 5.4 percent of the estimated capital cost, plus operation, maintenance, and other expenses, the total estimated annual cost of adding unit No. 2 is $190,250. Using the minimum cost of alternate power available to the licensee from Pacific Gas and Electric Company ($10.73 per kw-year) the annual value of 39,000 kw of dependable capacity is $418,470. Hence, the estimated annual benefits exceed the estimated annual costs by $228,220, with no credit given to additional energy generated during periods of high stream flow.

The Commission finds:

(1) The following described revised Exhibit L drawings and Exhibit M-6 conform to the Commission's rules and regulations and should be approved as part of the license for the project, and license Exhibit L drawings (FPC No. 2101-114, -115, and -116), which have been superseded, should be eliminated from the license for the project:

Exhibit	FPC No.	Entitled
L-128	2101-220	Camino Powerhouse, General Arrangement, Plan—El. 1885.0;
L-129	2101-221	Camino Powerhouse, General Arrangement, Plan—El. 1838.0;
L-130	2101-222	Camino Powerhouse, General Arrangement, Transverse Sections—Unit No. 1 & Service Bay.; and

Exhibit M-6, consisting of one typewritten page entitled "Camino Power Plant, Unit No. 2, General Description of Equipment."

(2) The authorized capacity to be installed in the project for the purpose of computing the capacity component of the administrative annual charge is by this order increased to 706,600 horsepower, and the amount of annual charges, based upon such increased capacity, to be paid under the license for the costs of administration of Part I of the Federal Power Act is reasonable.

The Commission orders:

(A) The revised Exhibit L drawings and Exhibit M-6, designated and described in finding (1) above are hereby approved as part of the license for Project No. 2101, and the license Exhibit L mentioned in the same finding as being superseded is hereby eliminated from the license for the project.

(B) Article 25 of the license is hereby further modified by adding thereto the following subparagraph (f):

(f) Commence construction for the installation of Camino generating unit No. 2 in the Camino powerhouse within 10 years from the effective date of this license (August 1, 1957) and shall thereafter and in good faith and with due diligence prosecute such construction; and shall complete such construction within 11 years from the effective date of the license.

(C) Article 46(a) of the license is hereby further modified, effective as of July 1, 1966, by substituting "(706,600 horsepower)" for "(612,000 horsepower)" as the presently authorized installed capacity of the project.

(D) This order shall become final 30 days from the date of its issuance unless application for rehearing shall be filed as provided in Section 313(a) of the Act, and failure to file such an application shall constitute acceptance of this order. In acknowledgment of the acceptance of this order, it shall be signed for the licensee and returned to the Commission within 60 days from the date of issuance of this order.

OPINION NO. 492-A

SKELLY OIL COMPANY, ET AL., DOCKET NO. G-18638, ET AL.*

OPINION AND ORDER AMENDING AND CONFIRMING ORDER REQUIRING REFUNDS

(Issued July 21, 1966)

Syllabus

1. Opinion No. 492 did not hold that the various equitable considerations were entitled to no weight; it did hold that such considerations, without more, were not sufficient to prevent ordering of refunds. P. 144.
2. There was no question here of burden of proof—the only burden on producers was to set forth any particular equities peculiarly within their knowledge which would outweigh principle that one who has collected excess rates is not entitled to keep them. P. 144.
3. Escrow provisions are for purpose of establishing a procedure to convey as large a portion of refunds as possible as far along to those entitled thereto as Commission's jurisdiction will allow. P. 145.
4. Absent a showing of special circumstances warranting such treatment, there is no equitable reason why producer of less than 10,000,000 Mcf should be excused from making refunds of excessive amounts collected merely because he is a small producer. P. 145.

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*For additional parties see Opinion No. 492 and order issued June 1, 1966, 35 FPC 849.

5. Commission *amends* and *confirms* prior Opinion and order.
Commissioner O'Connor *dissents.*

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

Ross, *Commissioner:*

On June 1, 1966, the Commission issued its Opinion No. 492, 35 FPC 849, requiring refunds by certain natural gas producers of a part of the amounts collected by them in excess of the 15 cents per Mcf later determined to be the proper initial rate. Because these excess amounts were collected while operating under temporary certificates without refund conditions, and a balancing of the equities indicated that refunds in full should not be ordered, no refunds were ordered of certain excess amounts collected but later expended in tax and royalty payments which cannot be recouped. Applications for rehearing were filed by Skelly Oil Company (Skelly), Tenneco Oil Company (Tenneco), George H. Coates (Coates), Prado Oil and Gas Company (Prado), (the predecessor of Sohio Petroleum Company), Coastal States Gas Producing Company (Coastal), and Glen A. Martin (Martin), on dates ranging from June 8 to June 30. By order of July 7, 1966, the Commission granted rehearing for the limited purpose of permitting consideration of all such applications timely filed.

Most of the arguments advanced in the applications for rehearing have been previously made and fully considered. On re-examining these arguments we find nothing that would cause us to depart from our prior determinations. Our views with respect to these arguments are set forth in Opinion No. 492, and need not be repeated here.

Statements made by the applicants indicate misinterpretations of our prior opinion, some so glaring that they should be corrected. It is stated (Skelly Application, pp. 3–4): "The Commission also mistakenly concludes that many of the equitable considerations advanced by Skelly and other producers are entitled to no weight because * * * these equitable considerations were known to the Court at the time it issued its decision on review of Opinion No. 362." We did not hold that the various equitable considerations were entitled to no weight. We did hold that these considerations, without more, were not sufficient to prevent the ordering of refunds of excessive amounts collected. If the factors known to the court were sufficient in and of themselves to militate against the ordering of refunds, there would be no reason for the court to have remanded the matter for further consideration. We would add that the particular equities referred to (set forth in the fourth full paragraph of page 852 of Opinion No. 492 would not be of sufficient weight as a matter of equity even if the court decision were not controlling, to overcome the countervailing equities calling for refund of amounts collected in excess of the rate determined to be proper.

Prado states that the Commission erred in holding that Prado had the "burden of proof" to show factual situations which would make refunds inequitable. Skelly states that the Commission erred in altering the "measure of proof" to require producers to show that it would be inequitable to order refunds.

There was no question of burden or measure of proof in this proceeding. The statements of the producers as to the relevant facts were accepted at their face value without presentation of evidence. The only burden cast upon the producers was to set forth any particular equities which would be peculiarly within their knowledge, and which would outweigh the ordinary equitable principle that one who has collected rates in excess of the rate determined to be proper should return the excess.

Skelly argues that the Commission "could not determine who would be equitably entitled to refunds", and that this is apparent from its direction to the producers to escrow the refunds. This statement is not in accordance with the facts. The escrow provisions are for the purpose of establishing a procedure to convey as large a portion of the refunds as possible as far along the way to those entitled to them as the jurisdiction of this Commission will allow. There is no question as to who is entitled to the refunds.

Prado and Coates urge that small producers should not be required to make refunds, but they do not allege any special circumstances warranting such treatment. In the absence of such a showing we think there is no equitable reason why the producer of less than 10,000,000 Mcf should be excused from making refunds of excessive amounts collected, merely because he is a small producer.

Tenneco's application objects to the inclusion of Tenneco in the order accompanying Opinion No. 492. It states that Tenneco never made deliveries of gas under a temporary certificate, and all deliveries under its permanent certificate were at the in-line price of 15 cents per Mcf. In these circumstances, there is nothing to refund. Tenneco fears it may be prejudiced in future proceedings if the present order is made to apply to it, even though no refund statement would be required where no excess amounts were collected. Accordingly, Tenneco will be deleted from the order in Opinion No. 492.

The only argument presented by Martin is the technical, legal one that the Commission order in Opinion No. 362 (Ordering Paragraph G) provided: "The certificates issued to the producer applicants listed below are hereby conditioned to prohibit any total initial price * * * greater than 15 cents per Mcf at 14.65 psia *from the date of issuance of this order* until such prices may be lawfully changed * * * *Glen A. Martin*, Docket No. G-18639." [Emphasis supplied.] Martin contends that this was a final order from which (so far as it concerned Martin) no one appealed, and that the decision of the Court of Appeals in Skelly does not apply to him. Martin contends that the Commission could have ordered refunds for the time prior to the order in Opinion No. 362, and did not do so, and that it is now foreclosed from doing so.

In Opinion No. 492 the Commission held that in the original *Skelly* opinion (Opinion No. 362, 28 FPC 401) it had not decided this question, and that the matter was still open. Martin has advanced no new arguments in the application for rehearing, and we adhere to our original view.

The Commission finds:

The assignments of error and grounds for rehearing set forth in the applications for rehearing filed by Skelly Oil Company on June 8, 1966, by Glen A. Martin, *et al.* on June 15, 1966, by George H. Coates on June 15, 1966, by Prado Oil and Gas Company (as predecessor of Sohio Petroleum Company) on June 16, 1966, and by Coastal States Gas Producing Company, on June 30, 1966, present no new facts or legal principles which would warrant any change or modification in the Commission's Opinion No. 492 in this proceeding issued June 1, 1966.

The Commission orders:

(A) Appendix A to Opinion No. 492 and its accompanying order, issued June 1, 1966, is hereby amended by deleting therefrom: "Tenneco Oil Company" and Docket Number "G-18765."

(B) Opinion No. 492 and its accompanying order, issued June 1, 1966, except as amended by paragraph (A) hereof, are in all respects confirmed.

(C) The relief requested on rehearing in the applications filed by all named parties other than Tenneco Oil Company is hereby denied.

Commissioner O'Connor *dissents* for the reasons set forth in his statement accompanying Opinion No. 492 issued June 1, 1966, and would grant the relief sought in the applications for rehearing.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

CITY OF TACOMA, WASHINGTON, PROJECT NO. 2016

ORDER APPROVING EXHIBIT L DRAWINGS SHOWING REMEDIAL CONSTRUCTION

(Issued July 21, 1966)

On April 26, 1966, City of Tacoma, Washington, Licensee for Project No. 2016, the Mayfield-Mossyrock development, on the Cowlitz River, filed an application for "amendment of plans" submitting therewith drawings showing the "as-built" additions and changes made to protect the plunge pool area below the Mayfield dam spillway from erosion and the addition of an aerial fish flume supported by a suspension bridge. The construction covered by Licensee's application which was performed in accordance with general emergency provisions of Article 3 of the license was necessitated as a result of floods during December, 1964 and January, 1965 which caused rock slides to fill the plunge pool and damage the downstream migrant fish flume.

The Commission finds:

The following described Exhibit L drawings conform to the Commission's rules and regulations and should be approved as part of the license for the project:

Exhibit L-M	FPC No.	Title: Cowlitz Power Development—Mayfield
Sheet 1	2016-102	Excavation, Scaling, and Rock Bolting.
Sheet 2	2016-103	Drainage Wells and Rock Anchors.
Sheet 3	2016-104	Plunge Pool Lining.
Sheet 4	2016-105	Plan-Bank Stabilization Features.
Sheet 5	2016-106	Gravity Wall.

The Commission orders:

The Exhibit L drawings as described in the above findings are hereby approved as part of the license for Project No. 2016.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

TENNECO OIL COMPANY (OPERATOR), ET AL., DOCKET NO. G-16867

ORDER DENYING MOTION TO VACATE OR ALTERNATIVELY TO STAY ORDER TO SHOW CAUSE

(Issued July 21, 1966)

On June 1, 1966, 35 FPC 866, the Commission ordered the applicants in this proceeding to show cause why excessive amounts collected, during the periods of operation under temporary certificates, should not be refunded in accordance with the principles of *Skelly Oil Company, et al.*, Opinion No. 492 issued June 1, 1966, 35 FPC 849, confirmed in Opinion No. 492-A issued July 21, 1966, *supra*, p. 143. On June 16, 1966 Tenneco Oil Company (Tenneco) moved to vacate the show cause order, or in the alternative, to stay the order pending judicial review of Opinion No. 492. Tenneco urges that, if Opinion No. 492 should be reversed by the courts, it would be a useless expense to Tenneco to comply with the present show cause order.

The intention and purpose of this Commission, and of the courts which have dealt with the present proceeding, have been to deal with the applicants in this proceeding in exactly the same manner as the applicants in *Skelly Oil Company, supra.* Each applicant in the Skelly proceeding was given the opportunity to set forth any equities which might differentiate its case from the general run. That opportunity is now being given the applicants in this proceeding. We do not believe that the delay requested by the movant would be consistent with speedy administrative determination and the prompt ordering of refunds enjoined upon us by the Supreme Court in *United Gas Improvement Corp. v. Callery Properties, Inc., et al.*, 382 U.S. 223, 15 L. Ed. 2d 284 (1965).

In the event the applicants here do not advance individual equities which require different treatment, they will be dealt with in exactly the same manner as the applicants in *Skelly Oil Company, supra.* If any stay of refunds is granted by court or Commission to the applicants in *Skelly Oil Company*, the applicants here will be entitled to similar stays. The purpose of the show cause order in the instant proceeding was not to require refunds to be made before a review of Opinion No. 492 can be had, but only to elicit statements from the applicants in this proceeding from which it may be determined whether the cases here should be differentiated from those in Opinion No. 492. If no differences exist, a simple statement to that effect will be no great burden upon Tenneco. If differences exist, they should be made known.

The motion to vacate the show cause order, or, alternatively, to stay it, will be denied.

The Commission orders:

The Motion to Vacate or Alternatively to Stay Order to Show Cause, filed June 16, 1966 by Tenneco Oil Company, is denied.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

UNION TEXAS PETROLEUM, ET AL., DOCKET NO. G-13221, ET AL. AND PAN AMERICAN PETROLEUM CORPORATION, DOCKET NO. G-16946

ORDER DENYING RECONSIDERATION AND GRANTING EXTENSION OF TIME FOR FILING

(Issued July 21, 1966)

On July 5, 1966, *supra*, p. 12, this Commission issued an order in this proceeding permitting certain producers of natural gas in Southern Louisiana and offshore thereof to file briefs and statements of facts revelant to the question of whether they should be required to make refunds of excessive rates collected while operating under temporary certificates without specific refund provisions. On July 15, 1966, Pan American Petroleum Corporation (Pan American) filed an application for rehearing of the order of July 5, 1966, and alternatively, for extension of time from August 4, 1966 to September 19, 1966 to file the briefs and statements.

The applicant argues that the Commission was without jurisdiction to issue the order of July 5, 1966, because the case is now before the Circuit Court of Appeals for the Tenth Circuit, which has exclusive jurisdiction under Section 19(b) of the Natural Gas Act. Pan American also argues that the Commission has no power to order refunds in these circumstances even if it has jurisdiction, and that, even if the Commission has both jurisdiction and the power to make the order of July 5, 1966, that order was an abuse of discretion because it imposed "avoidable and unnecessary burdens" upon the producers "and compels costly, useless acts" by them.

In the alternative, if rehearing is denied, Pan American requires an extension of time to file the statements and briefs. It bases its request upon two grounds: First, that the producers are referred for guidance by the July 5, 1966 order to *Skelly Oil Company*, Opinion No. 492 (June 1, 1966), but Opinion No. 492, 35 FPC 849, is now being reconsidered by the Commission and so can furnish no guidance; second, that more time is needed in any event to prepare the necessary briefs and statements.

The order of July 5, 1966, was an intermediate procedural order. An application for rehearing of such an order will not lie. We shall therefore consider the application of Pan American as a motion for reconsideration, so that the contentions may be considered on their merits.

Ordering paragraph (C) of Opinion No. 436, 32 FPC 254, in this proceeding specifically reserved the question whether refunds should be ordered in the circumstances we are now considering. This question is not properly before the Court. We reject the view that any appeal to a court removes jurisdiction from this Commission to act on issues not properly before the court. We think that reserved issues remain within the jurisdiction of the Commission. This is necessarily so, unless it was the intent of Congress to render orderly administration of the Act impossible.

Applicant's contention that the power of the Commission to order such refunds is now before the Court is incorrect. No such refunds have been ordered, nor can they be until the particular circumstances have been considered.

Pan American's third argument is that the order of July 5, 1966, was unreasonable and an arbitrary abuse of discretion because it imposed "avoidable and unnecessary burdens" and "costly, useless acts" upon the producers. Pan American states that the in-line price of 20 cents per Mcf may be overturned by the Court, in which case refunds may not be necessary and the labor of preparing a brief and statement of fact will be wasted.

The Pan American contract was dated October 10, 1958. "* * * the appropriate price for gas from southern Louisiana and the offshore Federal domain for the years 1956, 1957, 1958 and 1959 has been considered by the Commission on three prior occasions: *CATCO*, 27 FPC 96 (1962); *Placid Oil Company*, 30 FPC 283, mod. 30 FPC 682 (Opinion No. 398-A, 1963); and *United Gas Pipe Line Company*, 30 FPC 329 (1963). In each proceeding, on the basis of evidence substantially similar to that before us here, we concluded that the proper initial price was 18.5 cents per Mcf, plus 1.5 cents reimbursement for Louisiana severance tax where applicable.

"The evidence presented in the present proceeding for contracts entered into from 1957 to 1959 corresponds with that on which our three prior determinations of the in-line price for this area were based and we find no reason to depart from the conclusions reached in these cases." (Opinion No. 436 in this proceeding, 30 FPC 254 at p. 256.)

The determination of this in-line price in *Placid Oil Company*, *supra*, was reviewed by the Supreme Court in *United Gas Improvement Co.* v. *Callery Properties, Inc.*, 382 U.S. 223. The Supreme Court said, at page 229:

> The in-line price of 18.5 cents is supported by the contract prices in the south Louisiana area that were not "suspect" * * *

In such circumstances we think it most unlikely that the in-line price of 18.5 cents (plus 1.5 cents tax reimbursement) applicable to Pan American's 1958 contract will be overturned or increased to such an extent that there will be no refund exposure, particularly in view of the collection by Pan American of a rate of 23.55 cents per Mcf during the period in question—a rate substantially higher than those of almost all other producers here.

Nor are we convinced that the burden upon Pan American is so great as to justify delaying these proceedings until the in-line price has been passed upon by the Courts. In at least five similar proceedings[1] involving numerous large and small producers, those filing briefs and statements have been able to do so within the time prescribed (in some cases much less), and it has in no way been indicated that the burden upon them was as excessive as Pan American would represent. No computation of refunds is required; no refunds are ordered; the only burden upon Pan American is the statement of the facts of its case and the presentation of a legal brief. We do not think this burden so great as to justify an administrative delay of many months.

We turn now to Pan American's request for an extension of time for submission of briefs and statements. The applicant rightly points out that the order of July 5, 1966, referred the producers to Skelly Oil Company, Opinion No. 492, for guidance. The Commission later granted rehearing in that case for purposes of reconsideration, leaving the status of Opinion No. 492 uncertain. While the guiding principles of Opinion No. 492 have now been confirmed by Opinion No. 492–A, *supra*, p. 143, we think all producers in this proceeding should have an extension of time beyond the August 4 date previously fixed within which to file briefs and statements. We think that 30 days from the date of this order is a reasonable extension.

The Commission orders:

(A) The time for filing briefs and statements pursuant to ordering paragraph (A) of the order of July 5, 1966 in this proceeding is hereby extended to August 29, 1966.

(B) The application of Pan American Petroleum Corporation filed July 15, 1966 in this proceeding is in all other respects denied.

Commissioner O'Connor *concurs* in the result only.

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[1] *Skelly Oil Company,* Opinion Nos. 492 and 492–A; *Hawkins & Hawkins,* opinion to be issued; *Turnbull & Zoch Drilling Co.,* opinion to be issued; *Amerada Petroleum Corporation,* opinion to be issued; *Sun Oil Company,* opinion to be issued.

OPINION NO. 498

H. L. HAWKINS & H. L. HAWKINS, JR. (OPERATOR), ET AL., DOCKET NO. G–18077, ET AL.*

OPINION AND ORDER REQUIRING REFUNDS

(Issued July 22, 1966)

1. In accordance with *Skelly,* refunds are not required of amounts collected above "in-line" price attributable to royalty payments made prior to February 1, 1964. P. 151.
2. In view of earlier judicial ruling in *Skelly,* by February 1, 1964, every producer can equitably be charged with knowledge that refunds might be ordered of excess amounts collected under unconditioned temporary certificates. PP. 151, 152.

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*Additional parties set forth in Appendix A attached hereto. See order issued September 8, 1966, granting rehearing. Confirmed and motions for stay denied by Opinion No. 498–A issued December 6, 1966, 36 FPC 981. Affirmed, *W. S. Kilroy* v. *F.P.C.,* 401 F. 2d 730 (CA10–1968).

3. Production tax refunds will be ordered only insofar as such overpayments can be recouped out of future production tax liability, except for payments made after February 1, 1964. P. 152.
4. Failure to claim recoupment of production tax payments when such can be had shall not defeat refund obligation. P. 152.
5. Any anticipations producer may have had as to price [*i.e.* leading it to decline intrastate sale in order to accept temporary certificate], are not sufficient to defeat refund obligation. P. 153.
6. Transfers of interest in producing properties are not sufficient ground to refuse to order refunds as matter of equity. P. 153.
7. Where payment of full refund would be a hardship, Commission provides for installment payments. P. 153.
8. No refund is ordered where abandonment order contained no provision reserving question of refund liabilities. P. 154.
9. In a proceeding under Section 7 of the Natural Gas Act Commission *orders* refunds of amounts collected in excess of "in-line" price where producers initiated deliveries under unconditioned temporary authorizations.

Commissioner O'Connor *dissenting.*

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

BAGGE, *Commissioner:*

By our Opinion No. 475 and order, issued September 22, 1965, 34 FPC 897, we granted permanent certificates of public convenience and necessity under Section 7 of the Natural Gas Act to the producers listed in Appendix A hereto for sales of natural gas in Texas Railroad Commission District No. 3.[1] These certificates were conditioned upon initial prices of 16 cents per Mcf and 17 cents per Mcf, as indicated in Appendix A, which prices the Commission found to be the applicable "in-line" prices for the area.

All of the producers here involved had charged and collected rates in excess of the "in-line" prices of 16 and 17 cents per Mcf while making sales under their temporary certificates prior to obtaining permanent certificates. The temporary certificates contained no refund conditions. Ordering Paragraph (I) of Opinion No. 475 and order provided, in part, with respect to the producers listed in Appendix A hereto: "* * * the decision whether refunds should be ordered as a condition to the permanent certificates is deferred for subsequent determination." The Commission provided that any party might file briefs as to whether refunds should be ordered and as to the extent of such refunds, and further provided that any party wishing to introduce additional facts into the record should file with its brief a statement of such additional facts and the evidence by which such facts would be established.

Skelly Oil Company, et al., Opinion No. 492, issued June 1, 1966, 35 FPC 849, amended and confirmed Opinion No. 492–A (July 21, 1966, *supra*, p. 143) was the first decision by this Commission to require refunds from producers who collected amounts in excess of the applicable "in-line" price while operating under temporary certificates without refund conditions. In that case the producers had had no hearing upon the equities with respect to refunds, but were allowed to present briefs, and the issues were decided upon the basis of accepting the factual statements of the producers. In the instant case, the presiding examiner allowed the parties to present evidence upon the refund issue, cross-examination was had, and the relevant facts which the parties wished to introduce appear in the record. Although the Commission provided for the parties to submit statements as to any additional facts and supporting evidence, no party has set forth any additional relevant facts or evidence which it wishes to introduce, except on the questions of taxes and royalties. As the facts with respect to taxes and royalties have been accepted as stated by the producers, no further benefit could be gained by additional hearings.

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[1] Certificates were also issued by said order to four other producers with which we are not here concerned.

In *Skelly Oil Company, et al.*, Opinion No. 492, we stated: "It is now established that the Commission had both the power and the duty to require refunds of amounts collected in excess of the "in-line" price in the absence of a showing of factual situations which demonstrate that it would be inequitable to require refund of either all or part of the excess amounts collected." (p. 852.) This decision was not reached solely because it was the law of the case as established by the Court of Appeals for the District of Columbia (329 F. 2d 242). The ruling of that court that refunds might be required despite the absence of refund conditions in temporary certificates had been recognized by this Commission as the law in *Amerada Petroleum Corporation, et al.*, Opinion No. 422 (March 23, 1964, 31 FPC 623), cited in *Skelly, supra.* (p. 852.)

Consistent with the opinion in *Amerada, supra*, we must reject the suggestions in the dissenting opinion that we should not accept the doctrine of *Skelly* as precedent in other cases. The dissent would have us apply the principle expressed in *Sunray Mid-Continent Oil Co.* v. *F.P.C.*, 270 F. 2d 404 (CA10–1959) that a producer is entitled to know with some degree of certainty the conditions under which its gas will be sold in order to make an intelligent decision to accept or reject the tendered certificate. The *Sunray* case, however, did not involve the question now before us. To the extent it is contrary to *Skelly*, it was rejected by the Court of Appeals in the latter case. *Sunray* was also cited and heavily relied upon in argument before the Supreme Court in *United Gas Improvement Co.* v. *Callery Properties, Inc.*, 382 U.S. 223, 15 L. Ed. 2d 284 (1965). The argument was rejected by the Supreme Court. Although there was no mention of the *Sunray* case in the opinion, it seems clear that either the principle of the *Sunray* case was not accepted, or tnat the Supreme Court was not willing to extend its principle so far as to prevent the ordering of refunds.

Among the principles established in *Skelly* that need no further elaboration here are these: that evidence as to a producer's company-wide cost of service is not relevant, that evidence that a loss is incurred on a particular producing property is not relevant, and that evidence that only a small portion of refunds will reach the consumer is not relevant. *Skelly* further held that refunds should not be delayed until the determination of a just and reasonable rate where no Section 4(e) proceeding is involved.[2] The contentions of the producers upon all these points must be rejected.

The Commission held in *Skelly* that refunds would not be required of any amounts collected above the "in-line" price to the extent the producers made payments of royalties attributable to the excess amounts collected. In the present case this policy will be adhered to, except in the case of payments made by a producer on or after February 1, 1964.

On January 23, 1964, the Court of Appeals for the District of Columbia declared that refunds might be required of amounts in excess of the "in-line" price collected under a temporary certificate without refund condition. In view of the wide and rapid dissemination throughout the industry of information as to important court decisions affecting gas producers, we think that by February 1, 1964 every producer can equitably be charged with knowledge that refunds might be ordered in such circumstances. No payments made by a producer after that date can be said to have been made in reasonable reliance upon immunity from such refunds. From that time on, a producer should have taken steps to protect himself in the event refunds were ordered, and if he failed to do so, he has no equity to plead which will affect his refund obligation.

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[2] The amounts subject to refund in the present proceeding will be considerably reduced by reason of the fact that Section 4(e) proceedings are now pending with respect to a considerable portion of the production involved. It has been the practice of the Commission to postpone the determination of the question of refunds of amounts collected during the period that a rate increase is in effect subject in a Section 4(e) proceeding. (See, for example, *Union Texas Petroleum, et al.*, Opinion No. 436, 32 FPC 254 at p. 266.)

It might well be argued that, in view of the general knowledge throughout the industry of court cases affecting it, the producers should be charged with knowledge of possible refund obligations much earlier than the actual date of the court decision. It is undoubtedly true that many of these producers had such knowledge at the time the matter was appealed to the court, and probably even as early as the time the contention was first raised before the Commission in 1962. This is especially true with respect to the three producers here involved who were parties to *Skelly*. Since the exact date of such knowledge as to all parties has not been established, we have selected the latest date as the most equitable under the circumstances.

As in *Skelly*, to the extent production taxes were paid because of the excess amounts collected, refunds will be ordered only to the extent such tax overpayments can be recouped out of future production tax liability, unless the tax payments were made after February 1, 1964. Two of the producers have pointed out that if a refund of such amounts is ordered at this time, the producers will be out-of-pocket until recoupment takes place. If production should cease so that there can be no recoupment, a producer might be out-of-pocket permanently. With respect to such tax payments, each producer will be permitted to make this portion of its required refund as recoupment becomes possible. The failure to claim recoupment when recoupment can be had shall not defeat the obligation to make refunds.

Skelly Oil Company (Skelly) introduced evidence in this proceeding that, in reliance upon the fact that it would receive a 17.5-cent price, and assuming it would not have to make refunds, it declined an intrastate sale at the equivalent of 17.5 cents in order to accept the temporary certificate issued in Docket No. G–20155.[3] While the intrastate prices were 14, 15 and 16 cents, the intrastate sale would have required that the gas be taken in 15 years instead of the 22-year period of the present contract. In addition, the intrastate sale would not have required the laying of a delivery line, at a cost of $21,748, which Skelly undertook as part of the interstate sale. Its witness further noted that Skelly "felt certain" that it would receive a permanent certificate at 17.5 cents as this was less than the guideline price. Skelly argues that it would be inequitable to compel refunds in these circumstances.

The properties involved in Skelly's Docket No. G–20155 were assigned to Superior Oil Company on August 1, 1962, a little over eight months after deliveries had begun. The sale, presumably, was for the value the parties placed upon the gas to be delivered over the remaining life of the contract, and would not have been influenced by any prior opportunity Skelly may have had to made an intrastate sale. Skelly's investment in the additional pipeline (which would not have been needed in the intrastate sale) was thus liquidated. Its refund liability in this docket, exclusive of taxes and royalties, appears to be only about $1,200, since very little of the life of the contract was devoted to production prior to the transfer. We think that any anticipations Skelly may have had as to price, in the circumstances here stated, are not sufficient to defeat its obligation to make refunds of amounts collected in excess of what we have found to be proper.

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[3] In Skelly's other docket, No. CI63–672, there were no special facts alleged or placed in evidence that require consideration separate from that given the general arguments presented by the producers.

Callery Properties, Inc. (Callery) presented testimony by Witness Jones (who was subject to extensive cross-examination) in support of its contention that Callery's peculiar circumstances would made it inequitable for refunds to be ordered. According to the testimony, Callery does not own any part of its producing properties. It is merely an agent or nominee for participants who may own as little as one percent of the property and who pay Callery a fee for its management functions. Since Callery had no warning that refunds would be required it distributed the entire amount collected among these various participants. At the time the gas was first produced, the working interest was divided among 55 participants (Tr. 184). Twenty-seven subsequently transferred their interests, totaling 53.98284 percent of the original group interest in Wells 1 and 2 and 56.06903 percent in the other wells. The 27 transfers were made to another 55 individuals, trusts, estates, or corporations by sale, demise, gift or partnership liquidation (Tr. 184). Some of these in turn made transfers; at last count there were 87 separate working interest owners (Tr. 184). Jones testified, "Callery anticipates that current owners of interests could and would legitimately refuse to make refunds of portions of monies which were received by previous owners. As for previous owners, a number are now dead, their estates settled and their executors discharged. I anticipate that Callery would also have great difficulty in collecting from some of the previous owners of interests who are still living, and I believe it likely that legal action would be necessary in some cases." (Tr. 184) There is a further complication in that production payments may be retained when an interest is sold or may be assigned to an insurance company or bank. It would appear from the testimony (Tr. 185) that recovery would be difficult and Callery has been so advised by its attorneys, especially in the case of middlemen who have no liquid funds.

We do not think that transfers of interests in producing properties are sufficient ground to refuse to order refunds as a matter of equity. (See *Skelly Oil Company, supra*, page 856, with respect to Morgan Minerals Corporation.)

It should be also pointed out that Callery filed an increased rate which became effective, subject to refund in a Section 4(e) proceeding, on December 1, 1962. The only period with which we are here concerned is prior to that date. The testimony as to transfer and proliferation of ownership was given in July 1964, more than two years later, and apparently refers to a time when diversification of ownership was much greater than during the period with which we are concerned.

Callery has indicated that making payment of the full refund would be a considerable hardship and staff's initial brief recommends that payment of the refunds over a period of time should be permitted if a producer so desires. Our order will so provide.

The temporary certificate issued Kilroy Properties, Inc. (Kilroy) in Docket No. CI60-478 contained the following express condition: "This authority is conditioned on Kilroy refunding to Trunkline any amounts * * * collected in excess of the amount resulting from the rate finally determined to be proper in the Docket No. G-17263 proceeding in the event the matter is remanded to this Commission, and is further conditioned upon * * * agreement to be bound by the ultimate disposition of the proceedings now pending in the United States Court of Appeals for the District of Columbia in *Public Service Company* (sic.) v. *Federal Power Commission*, No. 15601, within 20 days hereof by a responsible official of the company." The sale in Docket No. G-17263 was certificated at 20 cents per Mcf and the appeal in No. 15601 was dismissed for lack of jurisdiction by order of June 1, 1960. Kilroy argues that under the express refund condition it was liable to make refunds only of amounts collected in excess of 20 cents per Mcf and that therefore, no refund would be due since 20 cents per Mcf was the initial rate collected by Kilroy. Abandonment was permitted by Commission order issued December 22, 1964, and the only producing well was plugged.

The order permitting abandonment contained no provision reserving the question of refund liabilities. The last deliveries were made in 1962, and less than $750 in refund obligations is involved. Under the circumstances, we think that no refunds should now be ordered.

The Commission orders:

(A) As a condition of the certificate granted in each of the dockets listed in Appendix A hereto, each certificate holder other than Kilroy Properties, Inc. shall file within 60 days of the effective date of this order a report of the amounts collected by said certificate holder in excess of 16 cents per Mcf at 14.65 psia, in the case of each certificate holder listed in Part I of Appendix A, and 17 cents per Mcf at 14.65 psia in the case of each certificate holder listed in Part II of Appendix A, less any amount specified in ordering paragraphs (B), (C), and (D). Interest to the date of this order shall be added at the rate of 6 percent per annum on all such excess amounts collected prior to March 1, 1960, and at the rate of 7 percent per annum on all such excess amounts collected on or after March 1, 1960, except that no interest shall be included on refunds to the extent state production taxes, paid but recoupable, are included in such refunds, and interest shall not exceed the legal rate recoverable by the certificate holder on that portion of the amount of any refund which was in fact paid over by certificate holder, not for his own benefit, to any third party prior to February 1, 1964.

(B) Each certificate holder listed in Appendix A, Part I, hereto, may omit from the reports required by ordering paragraph (A) any amount by which payments made before February 1, 1964, of royalties and overriding royalties were increased by reason of the difference between the price of 16 cents per Mcf and the rates actually collected, and any amounts by which payments made before February 1, 1964, of state production taxes, not recoupable by credit or in any other manner, were increased by reason of said difference.

(C) Each certificate holder listed in Appendix A, Part II, hereto may omit from the reports required by ordering paragraph (A) any amount by which payments made before February 1, 1964 of royalties and overriding royalties were increased by reason of the difference between the price of 17 cents per Mcf and the rates actually collected, and any amounts by which payments made before February 1, 1964, of state production taxes, not recoupable by credit or in any other manner, were increased by reason of said difference.

(D) The reports required by ordering paragraph (A) shall not include excess rates collected during any period when an increased rate in the docket in question was subject to possible refund in proceedings pursuant to Section 4(e) of the Natural Gas Act.

(E) Notwithstanding any other provision of this order, any state production taxes paid prior to February 1, 1964 by any party listed in Appendix A hereto, shall be required to be subject to the provisions of ordering paragraph (H) and the interest payments required thereby only from the time and to the extent that such excess tax payments may be recouped by credit or otherwise.

(F) Each report required by ordering paragraph (A) shall set forth the amount of refund related to each subject rate schedule (showing separately the principal and applicable interest, with the reasons for differing rates of interest on different portions of the principal), the basis used for such determination, the period covered and a letter from the purchaser of the gas agreeing to the correctness of the amounts.

(G) Copies of all filings made pursuant to ordering paragraph (A) hereof shall be served at the time of filing upon all participants who within 45 days of the issuance of this order shall so request in writing, and upon the purchaser of the gas.

(H) Each certificate holder listed in Appendix A hereto shall retain the amounts shown in the reports required under ordering paragraph (A) subject to further order of the Commission directing the disposition of those amounts. If any such certificate holder elects to commingle these retained refunds with its general assets and use them for its corporate purposes, it shall pay interest thereon at the rate of 5¾ percent per annum on all funds thus available from the date of the filing of the refund report to the date on which they are paid over to the person ultimately determined to be entitled thereto in a final order of the Commission. If the certificate holder elects to deposit the retained refunds in a special escrow account, the certificate holder shall tender for filing on or before the date of the filing of the refund report an executed Escrow Agreement, conditioned as set out below accompanied by certificate showing service of a copy thereof upon each of its jurisdictional customers. Unless notified to the contrary by the Secretary within 30 days from the date of filing thereof, the Escrow Agreement shall be entered into between the certificate holder and any bank or trust company used as a depositor for funds of the United States Government and the agreement shall be conditioned as follows:

(1) Certificate holder, the bank or trust company, and the successors and assigns of each, shall be held and formally bound unto the Federal Power Commission for the use and benefit of those entitled thereto, with respect to all amounts and the interest thereon deposited in a special escrow account, subject to such Agreement, and such bank or trust company shall be bound to pay over to such person or persons as may be identified and designated by final order of the Commission and in such manner as may be therein specified, all or any portion of such deposits and the interest thereon.

(2) The bank or trust company may invest and reinvest such deposits in any short-term indebtedness of the United States or an agency thereof or in any form of obligation guaranteed by the United States which is, respectively, payable within 120 days as the said bank or trust company in the exercise of its sound discretion may select.

(3) Such bank or trust company shall be liable only for such interest as the invested funds described in paragraph (2) above will earn and no other interest may be collected from it.

(4) Such bank or trust company shall be entitled to such compensation as is fair, reasonable and customary for its services as such, which compensation shall be paid out of the escrow account to such bank or trust company. Said bank or trust company shall likewise be entitled to reimbursement for its reasonable expenses necessarily incurred in the administration of this escrow account, which reimbursement shall be made out of the escrow account.

(5) Such bank or trust company shall report to the Secretary of this Commission quarterly, certifying the amount deposited in the trust account for the quarterly period.

Commissioner O'Connor *dissenting.*

APPENDIX A

PART I

Certificate Docket Number	Producer	Initial Price Including Tax and Other Reimbursements (at 14.65 psia)
		Cents
G-18481	John A. Newman (Operator), *et al*	17.5
G-18175	W. S. Kilroy (Operator), *et al*	17.5
G-18857	Callery Properties, Inc	17.5
G-19308	Gregory J. Gallagher	17.5
G-18077	H. L. Hawkins & H. L. Hawkins, Jr., Operator, *et al*	17.5
G-20155	Skelly Oil Company	17.5
G-20359	The Superior Oil Company	17.5
G-20385	Gregory J. Gallagher	17.5
G-18805	Shell Oil Company	18.0
G-19964	The Sparta Oil Company	18.0
CI60-497	Marathon Oil Company	[1] 18.0
CI60-343	Robert Mosbacher, Operator, *et al*	[2] 16.16947
CI60-434	North Central Oil Corporation, Operator	[3] 16.16947
CI60-496	C. W. Coffey & North Central Oil Corporation	[2] 16.16947
CI60-495	Woods Exploration & Producing Co., *et al*	[3] 16.16947
CI60-642	Ben H. Schnapp (Operator), *et al*	[2] 16.16947
CI61-468	Oil Reserves Corporation, Operator	[4] 17.0
CI60-610	Kirby Petroleum Company, Operator	[5] 17.5
CI60-348	Sun Oil Company	20.0

[1] Contract was amended to reflect 18.0¢/Mcf base rate instead of the original 18.5¢/Mcf base rate.

[2] Includes 0.21931¢/Mcf dehydration reimbursement.

[3] Subject to 0.21931¢/Mcf dehydration charge, which will be deducted by buyer.

[4] Includes 0.25¢/Mcf dehydration reimbursement.

[5] Buyer exercised option to purchase gathering system whereupon rate was reduced by 2.0¢/Mcf. Seller has to refund amounts over 15.5¢/Mcf subsequently to 10-10-61.

APPENDIX A

PART II

Certificate Docket Number	Producer	Initial Price Including Tax and Other Reimbursements (at 14.65 psia)
		Cents
CI61-1682	Placid Oil Company, Operator, *et al*	[1] 18.0
CI61-1221	H. L. Hunt, Operator, *et al*	[2] 18.0
CI61-1282	H. L. Hunt	[2] 18.0
CI61-1283	Hassie Hunt Trust, Operator, *et al*	[2] 18.0
CI61-1688	George R. Brown	17.5
CI61-1346	Nelson Bunker Hunt	[1] 18.0
CI61-1345	Lamar Hunt Trust Estate	[1] 18.0
CI61-1344	Caroline Hunt Trust Estate	[1] 18.0
CI61-1343	Caroline Hunt Sands	[1] 18.0
CI62-1152	A. F. Childers, Jr. (Operator), *et al*	17.5
CI63-672	Skelly Oil Company	18.0

[1] Temporary certificate conditions initial 20.0¢/Mcf rate down to 18.0¢/Mcf. Rate escalates to 23.0¢/Mcf after 10 years.

[2] Temporary certificate conditions initial 20.0¢/Mcf rate down to 18.0¢/Mcf. Rate escalates to 22.0¢/Mcf after first 4 years.

O'CONNOR, *Commissioner, dissenting:*

This is the first proceeding in which the Commission, when not compelled to do so by a court decision standing as the law of the case, has ordered a producer to make refunds of amounts collected pursuant to the price specified in a temporary certificate which contained no refund condition. In *Skelly Oil Company, et al.*, Opinion No. 492 (issued June 1, 1966) we were constrained by the opinion of the Court of Appeals for the District of Columbia, which was the law of that case and binding upon us. That opinion of the court expressed the view that the Commission had the power to order refunds and that there should be a careful weighing of the equities to determine whether, in addition to the absence of any specific condition, refunds should be ordered. This view differs from that expressed by the Circuit Court of Appeals for the Tenth Circuit in *Sunray Mid-Continent Oil Co.* v. *F.P.C.*, 270 F. 2d 404 (CA10–1959), in which the court indicated that a producer was entitled to know with some degree of certainty the conditions under which its gas would be sold so that it might make an intelligent decision whether to accept or reject the tendered certificate. See also *Sohio Petroleum Company* v. *F.P.C.*, 298 F. 2d 465, 468 (CA10–1961). I believe that the decision of the Circuit Court of Appeals for the Tenth Circuit expresses the better view of the law, and I regret that the majority of this Commission has seen fit to accept, when not compelled by a binding court decision, a view of the law which I believe to be erroneous and which is contrary to the previous view expressed by the Commission in *Amerada Petroleum Corporation*, 29 FPC 218. The Commission there expressly disclaimed any intention to order refunds on the ground that it would be inequitable to the producers, saying at page 220:

> Petitioner's proposal in other words comes down to little more than an argument that we should unilaterally impose a new refund commitment upon the producers. This we will not do. Assuming, without deciding, that we have authority to impose such additional restriction where extraordinary conditions exist that would justify such action, we think this clearly would not be a proper action for us to take here. Since the producers cannot abandon service without our authority and since, as indicated above, it would not be in the public interest to approve any such abandonment request, we would be in a position of having induced producers to dedicate their gas to the market upon one set of conditions, and then imposing more stringent conditions upon them. Such a course of action, except under the most extraordinary conditions, would appear to be inconsistent with the Commission's obligation to act upon applications with "such certainty as to allow the exercise of choice upon [the producer's] part." *Sunray Mid-Continent Oil Company* v. *F.P.C.*, 270 F. 2d 404. Equally important it would so denature the value of a Commission authorization as to place any reliance upon our actions in this area in serious jeopardy.

The Commission then flatly stated that it had provided that "*the temporarily certificated price is not subject to refund.*" [(Page 220), emphasis supplied.]

This accords with the Commission's prior view expressed in the *Skelly* case that to order such refunds would be improper. We were compelled by the adverse opinion of the Court of Appeals to depart from our opinion in the *Skelly* proceeding. We are not so compelled here. It is my view that until such time as the Supreme Court has reconciled the divergent opinions in the Court of Appeals the Commission should follow that view of the law which it proclaimed prior to the decision of the Court of Appeals in *Skelly*. Here the circumstances are more in the nature of retroactive legislation than adjudication, and hence constitutes a prohibited reparation. This is particularly the case here for all previous decisions, both administrative and judicial, required specific conditions in order that reliance on agency action would be forthcoming and that an applicant would be apprised fully of his potential obligations. I feel that this view of the law is to be preferred; it is the view which has previously been accepted by the Commission itself; it is a view which should be accepted as a matter of procedure; and it is one which we have recognized as more equitable than the one required of us by the Court of Appeals in *Skelly*.

The matter which we are considering here is not one in which a hardship should be thrust upon these producers upon the ground that failure to do so might establish a dire precedent. I think it safe to say that no temporary certificate will be issued in the future without full consideration of possible refunds and a determination as to potential liability. What we are dealing with in these cases then, is a particular phenomenon which in all probability will never come again. Yet in the larger sense our repeated efforts at price stability should be forthcoming. The benefit to the consumers of the retroactive requisition of the refund liabilities will be small. The producers have offered proof that only a fraction of any refunds made will ever reach consumers. In comparison to the entire gas bill to be paid by the consumers even the total refunds to be ordered here are very small. The impact upon the individual producer, however, and upon his operations, will in many instances be staggering, for that program is devoted sixty percent to exploration. Whether this subject be examined from the point of view of strict law, of justice and equity, of economic benefits to the consumer as opposed to the injuries to the producers, or in the light of creating a regulatory climate in which a producer can make intelligent decisions in reasonable reliance upon the decisions of the regulatory agencies and the courts, it seems clear that this Commission had committed error in accepting the decision of this Court of Appeals in *Skelly* as controlling precedent for other proceedings. I accordingly dissent.

I reemphasize that the law is fully supported by the equities here. Well over one-half of these dockets involve small producers. The necessity to such persons for reliance upon Commission certificates is clear, as set forth in my dissent to *Skelly Oil Co.*, Opinion No. 492 (issued June 1, 1966). The record here fully documents that conclusion. The inequities imposed by deferring and potentially excusing refunds by some producers who, subsequent to receiving temporary authorization, file rate increases is also compelling for deferral here. The role of the temporary to mitigate emergencies should not detract from a necessity for price stability in the natural gas industry. On this subject the law should not be vacillating between one year's compulsion and the next year's retraction, for such *ex post facto* reversal becomes an illegal reparation instead of a properly suspended or conditioned refund obligation.

For these reasons I dissent from the order issued today.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

TEXAS OIL & GAS CORPORATION,[1] DOCKET NOS. G-19769, RI61-181, RI62-84, RI63-111, RI64-253 AND RI65-240

ORDER ACCEPTING OFFER OF SETTLEMENT, REQUIRING FILING OF NOTICES OF CHANGE, REQUIRING REFUNDS, SEVERING AND TERMINATING PROCEEDINGS

(Issued July 22, 1966)

On May 31, 1966, Texas Oil & Gas Corporation (Texas Oil) filed an offer of settlement in these proceedings pursuant to Section 1.18(e) of the Commission's Rules of Practice and Procedure. The offer involves proposed increased rates for sales of natural gas made to Texas Eastern Transmission Corporation (TETC) by Texas Oil in the East Provident City Field, Lavaca County, and the Garwood Area, Colorado County, Texas (Texas Railroad Commission District Nos. 2 and 3, respectively). The East Provident City Field sale is made under Texas Oil's FPC Gas Rate Schedule No. 44, at a presently effective rate of 15.6¢ per Mcf of natural gas, and its Garwood area sale is made under its FPC Gas

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[1] Successor to Salt Dome Production Company.

Rate Schedule No. 45, at a presently effective rate of 15.8¢ per Mcf.[3] Each of the presently effective increased rates were suspended by order of the Commission for the statutory period, and thereafter were made effective, subject to refund, by Texas Oil, or its predecessor.

Under the terms of the offer, Texas Oil proposes to eliminate the periodic price escalation clauses from the subject rate schedules and to substitute therefor in each a life-of-contract rate of 15.0¢ per Mcf rate. Additionally, it proposes to refund all amounts of monies collected in excess of the settlement rates, subject to refund, with applicable interest, either by itself or its predecessor. The refund amount will be approximately $73,400, exclusive of interest, and Texas Oil's current annual revenue from these sales will be reduced by $28,500.

Texas Oil's proposal is consistent with the provisions of the Second and Ninth Amendments to the Commission's Statement of General Policy No. 61–1 (18 CFR 2.56) and we shall approve the same.

However, we desire to make it clear that acceptance of Texas Oil's offer of settlement shall not be construed as approval of any future increased rates that may be filed by Texas Oil under the subject rate schedules in accordance with its reservation of the right to file increases to cover possible future tax increases, and is without prejudice to any findings or order of the Commission in any future proceedings, including area rate or other similar proceedings, involving Texas Oil rates and rate schedules.

Additionally, for all of the reasons set forth in *Humble Oil & Refining Company*, Docket No. G–9287, *et al.*, 32 FPC 49, we shall require Texas Oil to deposit the refund monies charged and collected from TETC prior to June 1, 1965, in a special escrow account or to commingle the retained refunds with its general assets pending future action of the Commission. As to those refund monies charged and collected from sales made to TETC under the subject rate schedules by Texas Oil, subsequent to June 1, 1965, we shall order that refund be made, since such date TETC has agreed to an express flow-through obligation of such refund monies, but that TETC shall deposit such monies in a special escrow account, or commingle such retained refunds with its general assets pending further action of the Commission, pending determination of the flow-through obligation of certain of its customers.

The Commission finds:

The proposed settlement of the above-designated proceedings, on the basis described herein, as more fully set forth in the offer of settlement filed with the Commission by Texas Oil on May 31, 1966, is consistent with the Statement of General Policy No. 61–1, as amended, 18 CFR 2.56, and approval thereof as made effective and hereinafter ordered is in the public interest and is appropriate to carry out the provisions of the Natural Gas Act.

The Commission orders:

(A) The offer of settlement filed with the Commission by Texas Oil on May 31, 1966, is approved in accordance with the provisions of this order.

(B) Texas Oil shall file, within 30 days from the date of issuance of this order, notices of change in rates under its FPC Gas Rate Schedules to reflect the settlement rates and executed contractual amendments in accordance with the terms of its settlement proposal and as approved herein. The notices of change and contractual amendments shall be submitted in accordance with Part 154 of the Commission's Regulations under the Natural Gas Act.

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[3] Pressure base at 14.65 psia. Rate Schedule No. 45 is subject to a 1.5¢ gathering charge deduction, and a downward Btu adjustment.

(C) Texas Oil shall compute the difference between the rates collected subject to refund and the settlement rate for the sales for which it proposes to make refunds with applicable interest to the date of this order, and shall within 45 days from the date of issuance of this order submit a report to the Commission, with a copy to TETC, setting out the amount of refunds (showing separately the principal and applicable interest) the bases used for such determination, the period covered, and ten days thereafter shall submit to the Commission a copy of a letter from TETC agreeing to the correctness of such amounts.

(D) Texas Oil shall retain the amounts charged and collected prior to July 1, 1965, including the interest computed thereon, as required under paragraph (C) above, subject to further action of the Commission directing the disposition of those amounts; as to the refund monies charged and collected subsequent to June 1, 1965, it shall refund the same to TETC ten days after filing the letter from TETC required in paragraph (C) above, with applicable interest computed to May 31, 1966.

(E) TETC shall retain the amounts refunded to it by Texas Oil in accordance with paragraph (D) above, subject to further action of the Commission, and shall within 15 days from receipt of such monies report to the Commission its proposed disposition thereof.

(F) Texas Oil and TETC each may deposit the retained refunds in a special escrow account, and shall tender for filing within 60 days of the date of issuance of this order an executed Escrow Agreement, conditioned as set out below.[3]

Unless notified to the contrary by the Secretary within 30 days from the date of filing thereof, the escrow agreements shall be deemed to be satisfactory and to have been accepted for filing. The escrow agreements shall be entered into between Texas Oil and TETC, respectively, and any bank or trust company used as a depository of funds of the United States Government and the agreements shall be conditioned as follows:

(1) Texas Oil and TETC, the banks or trust companies, and the successors and assigns of each, shall be held and formally bound unto the Federal Power Commission for the use and benefit of those entitled thereto, with respect to all amounts and the interest thereon deposited in the special escrow account, subject to such agreement, and such banks or trust companies shall be bound to pay over to such person or persons as may be identified and designated by final action of the Commission and in such manner as may be therein specified, all or any portion of such deposits and the interest thereon.

(2) The banks or trust companies may invest and reinvest such deposits in any short-term indebtedness of the United States or any agency thereof, or in any form of obligation guaranteed by the United States which is, respectively, payable within 120 days as the said banks or trust companies in the exercise of their sound discretion may select.

(3) Such banks or trust companies shall be liable only for such interest as the invested funds described in Paragraph (2) above will earn and no other interest may be collected from them.

(4) Such banks or trust companies shall be entitled to such compensation as is fair, reasonable and customary for their services as such, which compensation shall be paid out of the escrow accounts to such banks or trust companies. Said bank or trust companies shall likewise be entitled to reimbursement for their reasonable expenses necessarily incurred in the administration of the escrow accounts, which reimbursement shall be paid out of the escrow accounts.

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[3] Texas Oil shall accompany its escrow agreement with a certificate showing service of a copy upon TETC.

(5) Such banks or trust companies shall report to the Secretary quarterly, certifying the amount deposited in the banks or trust companies for the quarterly period.

(G) If Texas Oil or TETC elects to commingle the retained refunds with their general assets and use them for business purposes, each shall notify the Secretary of the Commission of its intention so to do within sixty days of the issuance of this order, and shall pay interest on such monies at the rate of 5¾% per annum from the date of issuance of this order to the date on which they are paid over to the person or persons ultimately determined to be entitled thereto by final order or orders of the Commission.

(H) Upon notification by the Secretary of the Commission that Texas Oil has complied with the terms and conditions of this order, the subject proceedings shall terminate, and Docket Nos. G–19769, RI61–181, RI62–84, RI63–111 and RI64–253 shall be severed from the Texas Gulf Coast area rate proceeding, Docket No. AR64–2, all without further order of the Commission.

(I) The acceptance by the Commission of Texas Oil's offer of settlement, as amended, is without prejudice to any findings or determinations that may be made in any proceeding now pending, or hereafter instituted by or against Texas Oil and is without prejudice to claims or contentions which may be made by Texas Oil, the Commission staff, or any affected party hereto, in any proceedings.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

PHILLIPS PETROLEUM COMPANY, DOCKET NOS. G–16611, G–16612 AND KERR-MCGEE OIL INDUSTRIES, INC. (NOW KERR-MCGEE CORPORATION), DOCKET NOS. G–16718, G–16719

ORDER PERMITTING FILING OF FACT STATEMENTS AND BRIEFS

(Issued July 25, 1966)

Pursuant to Opinion No. 470, issued August 11, 1965, 34 FPC 486, certificates of public convenience and necessity under Section 7 of the Natural Gas Act, were issued to Phillips Petroleum Company (Phillips) and Kerr-McGee Oil Industries, Inc., now Kerr-McGee Corporation (Kerr-McGee), for the sales of gas from the Rollover Field, off the shore of Louisiana, and from the Hog-Bayou Field, also off the shore of Louisiana, but within its jurisdiction. Order Paragraph (C) of Opinion No. 470 provides that any refunds for the period from November 5, 1958 to July 23, 1964, will be determined in the manner set forth in Ordering Paragraph (C) of Opinion No. 436, *Union Texas Petroleum, et al.* (July 23, 1964), 32 FPC 254 and that the parties to this proceeding may make filings as provided in the latter opinion.

Ordering Paragraph (C) of Opinion No. 436 deferred decision as to whether refunds should be ordered, and the amounts of such refunds, where producers operating under temporary certificates, without express refund conditions, collected rates in excess of the "in-line" prices later determined—20 cents per Mcf in the case of gas produced within the domain of Louisiana, and 18.5 cents per Mcf for gas produced offshore outside the domain of Louisiana. Paragraph (C) of Opinion No. 436 further provided that the producers might within 30 days file briefs and statements of fact bearing upon the ultimate determination of the refund obligation. The filing of such briefs and statements was deferred by later order of the Commission. By order issued July 5, 1966, *supra*, p. 12, the Commission allowed the producers affected by Opinion No. 436 to set forth any equities which they might contend would militate against ordering refunds of any or all excess amounts collected under their temporary authorizations. The same opportunity should be afforded Phillips and Kerr-McGee with respect to the sales which concern us here. Accordingly, Phillips and Kerr-McGee may within 30 days file briefs on this question; together with any statements of the relevant facts which they may wish to prove in any hearing which may be ordered, together with a statement of the evidence which it is proposed to introduce in support of such facts. We urge Phillips and Kerr-McGee not to reiterate general arguments which have been repeatedly presented and rejected by the Commission, and to confine their briefs and statements to matters which may be relevant in the light of the determination of this Commission in *Skelly Oil Company, et al.*, Opinion No. 492, 35 FPC 849, as modified and confirmed in Opinion No. 492–A (1966), *supra*, p. 143, and subsequent decisions of the Commission.

The Commission orders:

(A) Phillips Petroleum Company and Kerr-McGee Corporation may file within 30 days of the effective date of this order a statement of any facts which it is contended would render unjust or inequitable the refund of any or all amounts collected in excess of the prices certificated in Docket Nos. G–16611, G–16612, G–16718 and G–16719, together with a statement of the evidence which will be introduced to prove such facts in the event a hearing is ordered, together with a brief upon the propriety of ordering refunds under the circumstances.

(B) Each participant who wishes to be served with copies of the statements and briefs permitted by Ordering Paragraph (A) shall give notice to the Secretary of the Commission in writing filed not later than ten days from the date of this order. The Secretary shall transmit, to Phillips Petroleum Company and Kerr-McGee Corporation and to each participant filing notice pursuant to this paragraph, a list of the participants filing such notice.

(C) Copies of all filings made pursuant to Ordering Paragraph (A) hereof shall be served at the time of filing upon all participants who have filed timely notice pursuant to Ordering Paragraph (B) hereof.

(D) Any participant shall have 20 days to respond to any statement or brief filed pursuant to Ordering Paragraph (A) hereof.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

SOUTH TEXAS NATURAL GAS GATHERING COMPANY, DOCKET NO. CP66–345

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued July 25, 1966)

On April 29, 1966, South Texas Natural Gas Gathering Company (Applicant) filed in Docket No. CP66–345 an application, as supplemented on May 9 and May 13, 1966, pursuant to Section 7(c) of the Natural Gas Act, as implemented by Section 157.7(b) of the Regulations under the Act, for a certificate of public convenience and necessity authorizing the construction during the period August 1, 1966, through June 30, 1967, and operation of gas purchase facilities to enable

Applicant to take into its certificated pipeline system natural gas which will be purchased from producers thereof, all as more fully set forth in the application in this proceeding.

The purpose of this "budget-type" application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system new and existing supplies of natural gas in various producing areas adjacent to said system.

Applicant requests waiver of the cost limitations imposed by Section 157.7(b) of the Commission's Regulations under the Natural Gas Act so that it may maintain its competitive position in acquiring new supplies of natural gas. The total cost of the proposed facilities will not exceed $1,000,000, with no single project to exceed a cost of $250,000, which costs will be financed from cash on hand, from cash generated from normal operations and from internal sources.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on July 21, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, supplements and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, South Texas Natural Gas Gathering Company, a Delaware corporation having its principal place of business in Corpus Christi, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its Opinion and order issued August 30, 1962, in Docket No. G-18907 (28 FPC 401, 418).

(2) The facilities hereinbefore described, as more fully described in the application, as supplemented, in this proceeding, are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Applicant should submit within 60 days after the expiration of the authorization granted hereinafter a statement in compliance with Section 157.7(b)(3) of the Commission's Regulations under the Natural Gas Act.

(6) Public convenience and necessity require that the certificate hereinafter issued and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e) and (f) of Section 157.20 of said Regulations.

(7) The authorization hereinafter granted should be limited to construction during the period August 1, 1966, through June 30, 1967, and the total expenditures for facilities to be constructed thereunder should be limited to a maximum of $1,000,000, with no single project to exceed a cost of $250,000.

(8) Good cause has been shown for waiver of the cost limitations imposed by Section 157.7(b) of the Commission's Regulations under the Natural Gas Act.

(9) The certificate issued hereinafter should not be construed as authorization to attach new customers or to increase the volume of sales, above those heretofore authorized, to existing jurisdictional customers.

The Commission orders:

(A) Upon the terms and conditions of this order, a certificate of public convenience and necessity is issued authorizing Applicant, South Texas Natural Gas Gathering Company, to construct during the period August 1, 1966, through June 30, 1967, the proposed facilities hereinbefore described, as more fully described in the application, as supplemented, in this proceeding, and to operate such facilities only to take natural gas into its certificated facilities from producers who have received authorization from the Commission to sell natural gas to said Applicant.

(B) Applicant shall submit within 60 days after the expiration of the authorization granted by paragraph (A) above a statement in compliance with Section 157.7(b)(3) of the Commission's Regulations under the Natural Gas Act.

(C) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e) and (f) of Section 157.20 of said Regulations.

(D) The authorization granted in paragraph (A) above is limited to construction during the period August 1, 1966, through June 30, 1967, and the total expenditures for facilities to be constructed thereunder are limited to a maximum of $1,000,000, with no single project to exceed a cost of $250,000.

(E) Applicant's request for waiver of the cost limitations imposed by Section 157.7(b) of the Commission's Regulations under the Natural Gas Act is granted.

(F) The certificate issued by paragraph (A) above shall not be construed as authorization to attach new customers or to increase the volume of sales, above those heretofore authorized, to existing jurisdictional customers.

OPINION NO. 499

TURNBULL & ZOCH DRILLING CO., ET AL., DOCKET NO G-17960, ET AL.*

OPINION AND ORDER REQUIRING REFUNDS

(Issued July 25, 1966)

Syllabus

1. It is established that Commission has both power and duty to order refunds of amounts collected in excess of in-line price by producers operating under temporary certificates without specific refund conditions, absent factual showing that it would be inequitable to require refunds. P. 165.
2. *Reaffirming Skelly* and subsequent line of cases, Commission holds (1) it would be inequitable to order refunds of amounts attributable to excess prices paid out in royalties prior to February 1, 1964: (2) state production taxes actually paid prior to February 1, 1964, attributable to excess amounts collected shall be refunded only to extent recoupable; (3) prop-

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*Additional parties set forth in Appendix A attached hereto. See order issued September 2, 1966, granting rehearing. Reconsideration denied by order issued October 14, 1966, 36 FPC 762.

erties transferred from one owner to another will not eliminate earlier owner's refund obligation for period of his ownership; and (4) evidence of producer cost of service and whether a loss was sustained on a particular producing property is irrelevant. P. 165.

3. Change in stock ownership of producer will not defeat refund requirement even though successive stockholders may have paid for stock in belief no refund requirement existed. P. 166.
4. A successor in interest is subject to all obligations which would have been fixed upon predecessor had no transfer taken place. P. 166.
5. Fact that producer may have conducted a loss enterprise is not sufficient to defeat refund obligation. P. 166.
6. That producer tied up funds in unprofitable exploration and development is no reason to forgive refund obligation. P. 166.
7. Where producer may have conducted loss enterprise, he should be given opportunity to work out refund obligation over period of time. P. 166.
8. It is neither inequitable nor discriminatory that one producer obtained more favorable results for same sale through an over-all settlement than protesting producers obtained by pursuing matter to decision. P. 167.
9. No purpose would be served by presentation of evidence where briefs do not indicate necessity for hearing and relevant facts set forth therein have been accepted as established. P. 167.
10. In a proceeding under Section 7 of the Natural Gas Act, Commission *requires* refunds of excess amounts collected under temporary authorizations containing no specific refund conditions.

Commissioner O'Connor *dissents.*

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

BAGGE, *Commissioner:*

By our Opinion No. 478 and order, September 30, 1965, 34 FPC 1001, pursuant to Section 7 of the Natural Gas Act, the Commission issued permanent certificates of public convenience and necessity in 64 dockets for sales of natural gas by producers in Texas Railroad Commission District No. 4. In 61 of these dockets the question of whether refunds should be ordered of excessive amounts collected during the period of operation under temporary certificates was deferred for subsequent consideration.

It is now established that the Commission has both the power and the duty to order refunds where amounts in excess of the in-line price have been collected by a producer operating under a temporary certificate without specific refund conditions "in the absence of a showing of factual situations which demonstrate that it would be inequitable to require refunds of either all or part of the excess amounts collected." *Skelly Oil Company, et al.*, Opinion No. 492 (35 FPC 849 at 852; June 1, 1966) amended and confirmed Opinion No. 492-A (July 21, 1966, *supra*, p. 143), and *Hawkins & Hawkins (Operator), et al.*, Opinion No. 498, (July 22, 1966, *supra*, p. 149).[1] We have determined in the cited cases that it would be inequitable to order refunds of amounts attributable to the excess prices which have been paid out in royalties or overriding royalties prior to February 1, 1964. We have also determined that state production taxes actually paid out by a producer prior to such date and attributable to the excessive portion of rates collected shall be refunded only to the extent recoupable, by credit or otherwise. On the other side of the coin, we have determined that the fact that properties were transferred from one owner to another will not eliminate any refund obligation of the earlier owner for the period of his ownership. We have also established that evidence of the cost of service of a particular company is irrelevant and that it is also irrelevant whether a loss was sustained upon a particular producing property. To these principles we adhere in the present proceeding.

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[1] In the latter case we expressly rejected the suggestion that the principle expressed in *Sunray Mid-Continent Oil Co.* v. *F.P.C.*, 270 F. 2d 404 (CA10–1959), would militate against refunds under these circumstances.

Examination of the briefs submitted discloses that little has been advanced except general arguments with which we have dealt in our earlier decisions. There are certain contentions, however, which should be specifically noted.

Continental Oil Company (Continental) states that in any hearing allowed by the Commission it would show that Continental and another company had agreed to each acquire a one-half interest in properties of Delhi-Taylor Oil Corporation and that the "negotiation and decision to acquire an interest in the Dehli-Taylor properties for certain considerations were based, in part, on the understanding that there were no refund obligations for these Delhi dockets since they were unconditioned temporary certificates." We have previously pointed out (*Skelly Oil Co., et al.*, Opinion No. 492, page 856) that a change in stock ownership of a producer will not defeat a refund requirement even though the successive stock holders may have paid for their stock in the belief that no refund requirements existed. Any successor in interest, whether his successorship occurs by lease acquisition, stock purchase, or however, takes the risk that his interpretation of the law or his suppositions as to the facts may be erroneous, just as he acquires the possibility of unexpected gain should some unforeseen legal interpretation or newly discovered fact increase the value of what he has acquired. A successor in interest is subject to all obligations which would have been fixed upon his predecessor had no transfer taken place.

Jonnell Gas, Incorporated, (Jonnell) urges that the potential refund exposure for gas in its Docket No. CI60-323 is approximately $540,000. It states that even if Jonnell could recover from other interests the respective portions of any refunds required "Jonnell's remaining net portion of the potential total refund, standing alone, continues to be a substantial amount." Jonnell alleges that the money allocable to it has been reinvested for drilling and development purposes, and that its producing properties have not worked out well, which makes borrowing difficult or impossible. It asks whether the Commission would require Jonnell to substantially liquidate its sole business and operation under sacrifice conditions in order to make a refund. Jonnell also raises the question of whether a forced liquidation would produce a sufficient excess of proceeds over liabilities to allow a refund to be made.

The fact that a producer may have conducted a loss enterprise is not sufficient to defeat his refund obligation. The fact that a producer has tied up his funds in unprofitable exploration and development is no reason why his refund obligation should be forgiven. To the extent that this refund obligation was incurred prior to February 1, 1964, however, we think that Jonnell should be given every opportunity to work out its refund obligation over a period of time. Whatever the equities, there is no practical purpose to be served by requiring the liquidation of its business. While the equities may not eliminate the refund obligation, both equity and common sense would seem to dictate that all possible accommodation be given to enable Jonnell to meet its obligation. Accordingly, while refunds will be ordered, Jonnell will be permitted to present a proposed schedule of payments for approval by the Commission. Any other producer for whom immediate payment will constitute a hardship may do the same.

Blanco Oil Company (Operator), et al. (Docket No. CI61-618), and *Killam & Hurd* (Docket No. CI61-626) protest that it is inequitable to impose a refund obligation upon them because none was imposed in the settlement of The Atlantic Refining Company's (Atlantic) Docket No. CI61-482. Atlantic's sales were made under identical contracts from the same field to the same purchaser, and, in one instance, from a well owned jointly by Atlantic and the two protesting producers. "Applicants cannot imagine how, in justice or good conscience, the Commission could require Applicants (smaller producers in the field) to refund any amounts previously collected without requiring Atlantic (largest in the field) to do so." (Brief, p. 4.)

The Atlantic settlement involved all of its jurisdictional sales in which conflicting viewpoints were resolved with respect to level of rates and amount of refunds. Compromise of these differences resulted, among other things, in an immediate reduction in Atlantic's rate in Docket No. CI61-482 without refunds. In the same manner, a company-wide settlement of the Jake L. Hamon rate questions resulted in an immediate reduction of rates for sales being made in Texas Railroad District No. 4 under temporary certificates without refund conditions. Partial refunds under these rate schedules were agreed to by the parties and accepted by the Commission. *Jake L. Hamon, et al.*, Docket No. RI61-408, *et al.*, order issued November 5, 1965, 34 FPC 1243. The protesting producers made no attempt to settle their rate problems through the settlement process under the Grigsby formula for small producers or otherwise. *Jack W. Grigsby (Operator), et al.*, 32 FPC 529 (1964). The fact that Atlantic obtained more favorable results for this sale from an over-all settlement than the protesting producers obtained by pursuing the matter to a decision is neither inequitable nor discriminatory. If the results had proved to be less favorable to those who settled, they would have no just complaint.

Nothing has been set forth in any of the briefs submitted which indicates the necessity for a hearing upon the refund issue. To the extent that relevant facts have been set forth, they have been accepted as established for the purposes of this order. In these circumstances no purpose would be served by the presentation of evidence.

Accordingly, refunds will be ordered of all amounts collected in excess of the in-line price established in this proceeding during the periods producers were operating under temporary certificates, except that refunds will not be ordered of payments of royalties or overriding royalties attributable to the excess amounts collected, or of nonrecoupable state production taxes to the extent paid on account of excess amounts collected, provided said payments of taxes or royalties were made prior to February 1, 1964.

The Commission orders:

(A) As a condition of the certificate granted in each of the dockets listed in Appendix A hereto, each certificate holder shall file within 60 days of the effective date of this order a report of the amounts collected by said certificate holder in excess of the price conditioned in said certificate, less any amount specified in ordering paragraphs (B) and (C). Interest to the date of this order shall be added at the rate of 6 percent per annum on all such excess amounts collected prior to March 1, 1960, and at the rate of 7 percent per annum on all such excess amounts collected on or after March 1, 1960, except that no interest shall be included on refunds to the extent state production taxes, paid but recoupable, are included in such refunds, and interest shall not exceed the legal rate recoverable by the certificate holder on that portion of the amount of any refund which was in fact paid over by certificate holder, not for his own benefit, to any third party prior to February 1, 1964.

(B) Each certificate holder listed in Appendix A hereto may omit from the reports required by ordering paragraph (A) any amount by which payments made before February 1, 1964, of royalties and overriding royalties were increased by reason of the difference between the price conditioned in its certificate and the rates actually collected, and any amounts by which payments made before February 1, 1964, of state production taxes, not recoupable by credit or in any other manner, were increased by reason of said difference.

(C) The reports required by ordering paragraph (A) shall not include excess rates collected during any period when an increased rate in the docket in question was subject to possible refund in proceedings pursuant to Section 4(e) of the Natural Gas Act.

(D) Notwithstanding any other provision of this order, any state production taxes paid prior to February 1, 1964 by any party listed in Appendix A hereto, shall be required to be subject to the provisions of ordering paragraph (G) and the interest payments required thereby only from the time and to the extent that such excess tax payments may be recouped by credit or otherwise.

(E) Each report required by ordering paragraph (A) shall set forth the amount of refund related to each subject rate schedule (showing separately the principal and applicable interest, with the reasons for differing rates of interest on different portions of the principal), the basis used for such determination, the period covered and a letter from the purchaser of the gas agreeing to the correctness of the amounts.

(F) Copies of all filings made pursuant to ordering paragraph (A) hereof shall be served at the time of filing upon all participants who within 45 days of the issuance of this order shall so request in writing, and upon the purchaser of the gas.

(G) Each certificate holder listed in Appendix A hereto shall retain the amounts shown in the reports required under ordering paragraph (A) subject to further order of the Commission directing the disposition of those amounts. If any such certificate holder elects to commingle these retained refunds with its general assets and use them for its corporate purposes, it shall pay interest thereon at the rate of 5¾ percent per annum on all funds thus available from the date of the filing of the refund report to the date on which they are paid over to the person ultimately determined to be entitled thereto in a final order of the Commission. If the certificate holder elects to deposit the retained refunds in a special escrow account, the certificate holder shall tender for filing on or before the date of the filing of the refund report an executed Escrow Agreement, conditioned as set out below accompanied by certificate showing service of a copy thereof upon each of its jurisdictional customers. Unless notified to the contrary by the Secretary within 30 days from the date of filing thereof, the Escrow Agreement shall be entered into between the certificate holder and any bank or trust company used as a depositor for funds of the United States Government and the agreement shall be conditioned as follows:

(1) Certificate holder, the bank or trust company, and the successors and assigns of each, shall be held and formally bound unto the Federal Power Commission for the use and benefit of those entitled thereto, with respect to all amounts and the interest thereon deposited in a special escrow account, subject to such Agreement, and such bank or trust company shall be bound to pay over to such person or persons as may be identified and designated by final order of the Commission and in such manner as may be therein specified, all or any portion of such deposits and the interest thereon.

(2) The bank or trust company may invest and reinvest such deposits in any short-term indebtedness of the United States or an agency thereof or in any form of obligation guaranteed by the United States which is, respectively, payable within 120 days as the said bank or trust company in the exercise of its sound discretion may select.

(3) Such bank or trust company shall be liable only for such interest as the invested funds described in paragraph (2) above will earn and no other interest may be collected from it.

(4) Such bank or trust company shall be entitled to such compensation as is fair, reasonable and customary for its services as such, which compensation shall be paid out of the escrow account to such bank or trust company. Said bank or trust company shall likewise be entitled to reimbursement for its reasonable expenses necessarily incurred in the administration of this escrow account, which reimbursement shall be made out of the escrow account.

(5) Such bank or trust company shall report to the Secretary of this Commission quarterly, certifying the amount deposited in the trust account for the quarterly period.

(H) Any certificate holder may apply to the Commission, within 15 days of any order directing payment of any or all amounts held by such certificate holder pursuant to ordering paragraph (G), for leave to make payments over a period of time in discharge of its refund obligation. Such application shall set forth the reasons for the application and the proposed payment arrangements, which shall be subject to Commission approval.

Commissioner O'Connor *dissents* for the reasons expressed in his dissents in *Skelly Oil Company, et al.*, Opinion No. 492 (June 1, 1966, 35 FPC at p. 859), and *H. L. Hawkins & H. L. Hawkins Jr.*, (*Operator*), *et al.*, Opinion No. 498 (July 22, 1966, *supra*, at p. 149).

APPENDIX A

	Docket Nos.
Turnbull & Zoch Drilling Co. (Operator), *et al*	G–17960
Susanoil, Inc	G–18212
Tenneco Oil Company	G–18223
Getty Oil Company (Operator), *et al*	G–18378
McCurdy & McCurdy	G–18434
Shell Oil Company	G–18439
Herman Brown Estate, *et al*	G–18479
M. W. Crockett, *et al*	G–18522
Investors Syndicate of the Southwest, Inc	G–18590
G. H. Vaughn, Jr., *et al*	G–18678
V. F. Neuhaus	G–18861
Zimet Brothers, Inc., Agent (Operator), *et al*	G–18987
Phillips Petroleum Company	G–19498
American Petrofina Company of Texas	CI60–134
Jonnell Gas, Incorporated (Operator), *et al*	CI60–323
Tenneco Oil Company	CI60–325
James A. Wood Trustee (Operator), *et al*	CI60–383
Joseph E. Seagram & Sons, Inc., d/b/a *	CI60–506
Livingston Oil Company	CI60–508
Breuer & Curran Oil Co	CI60–581
George H. Coates	CI60–591
Austral Oil Company, Incorporated	CI61–427
Blanco Oil Co. (Operator), *et al*	CI61–618
Killam & Hurd	CI61–626
H. J. Mosser	CI61–694
Bright & Schiff	CI61–1541
K. D. Owen, *et al.*, d/b/a Owen and Moss	CI61–1579
Appell Petroleum Corp. (Operator), *et al*	CI61–1591
Mayfair Minerals, Inc	CI61–1661
J. C. Trahan, Drilling Contractor, Inc	CI62–123
Continental Oil Company	CI64–1307
Continental Oil Company	CI64–1310

In the dockets as to which the determination as to refunds was reserved, but which are not listed here, it appears no refund is due if the initial prices as determined by the Commission in Opinion No. 478 are not disturbed.

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*Texas Pacific Oil Company, *et al.*

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

CONSOLIDATED GAS SUPPPLY CORPORATION, DOCKET NO. CP66–343

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued July 26, 1966)

On April 28, 1966, Consolidated Gas Supply Corporation (Applicant), filed in Docket No. CP66–343 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas transmission facilities, all as more fully set forth in the application.

Applicant proposes to replace its Line No. 2 (26.8 miles of 10-inch pipeline) extending between the Sabinsville Compressor Station, Tioga County, Pennsylvania, and its junction with Line No. 10 in Potter County, Pennsylvania, and 9.3 miles of the easternmost portion of 12-inch Line No. 10, extending between the western terminus of Line No. 2 and Roulette Gate, Potter County, Pennsylvania.

The pipeline proposed to be constructed and operated, looping Applicant's Line No. 280, will consist of (1) 26.2 miles of 26-inch pipeline extending between the Elk Run Gate, Tioga County, Pennsylvania, the present southern terminus of Line No. 50, and Finnefrock Compressor Station, Clinton County, Pennsylvania, and (2) 21.6 miles of 24-inch pipeline extending between Finnefrock Compressor Station and Driftwood Gate, Cameron County, Pennsylvania.

The replacement will increase the capacity of its transmission system upstream of its northern storage pool area. The proposed facilities, to be constructed in 1966, will be needed to meet the injection requirements of its northern storage pools beginning with the 1967 injection season.

The total estimated cost of Applicant's proposed facilities is $5,207,850, which cost will be financed by funds on hand and funds to be obtained from Applicant's parent corporation, Consolidated Natural Gas Company.

At a hearing held on July 21, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorizations, and upon consideration of the record,

The Commission finds:

(1) Consolidated Gas Supply Corporation, a West Virginia corporation with its principal place of business in Clarksburg, West Virginia, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order issued May 24, 1965 in Docket No. CP65-262 (33 FPC 1047).

(2) The facilities hereinbefore described and as more fully described in the application and exhibits in this proceeding, will be used in the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission, and the construction and operation thereof and the transportation of natural gas are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed construction and operation of facilities is required by the public convenience and necessity, and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, Consolidated Gas Supply Corporation, authorizing the construction and operation of facilities as more fully described in the application in this proceeding, subject to the jurisdiction of the Commission, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be completed and placed in actual operation as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within 12 months from the date on which this order issues.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

MICHIGAN WISCONSIN PIPE LINE COMPANY, DOCKET NO. CP66-356

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued July 26, 1966)

On May 9, 1966, Michigan Wisconsin Pipe Line Company (Applicant) filed in Docket No. CP66-356 an application pursuant to Section 7(c) of the Natural Gas Act, as implemented by Section 157.7(b) of the Regulations under the Act, for a certificate of public convenience and necessity authorizing the construction during the twelve months period commencing July 13, 1966, and the operation of gas purchase facilities to enable Applicant to take into its main pipeline system natural gas which will be purchased from producers thereof, all as more fully set forth in the application in this proceeding.

The purpose of this "budget-type" application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system new supplies of natural gas in various producing areas generally coextensive with said system.

The total cost of the facilities covered by this application will not exceed a maximum of $3,000,000, with no single project to exceed a cost of $500,000, which costs are proposed to be financed from cash generated from operations.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on July 21, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Michigan Wisconsin Pipe Line Company, a Delaware corporation having its principal place of business in Detroit, Michigan, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of July 14, 1950, in Docket No. G-1302 (9 FPC 167).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Applicant should submit within 60 days after the expiration of the authorization granted hereinafter, a statement in compliance with Section 157.7(b)(3) of the Commission's Regulations under the Natural Gas Act.

(6) Public convenience and necessity require that the certificate hereinafter issued and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e) and (f) of Section 157.20 of said Regulations.

(7) The authorization hereinafter granted should be limited to construction during the twelve months period commencing July 13, 1966, and the total expenditures for facilities to be constructed thereunder should be limited to a maximum of $3,000,000, with no single project to exceed a cost of $500,000.

The Commission orders:

(A) Upon the terms and conditions of this order, a certificate of public convenience and necessity is issued authorizing Applicant, Michigan Wisconsin Pipe Line Company, to construct during the twelve months period commencing July 13, 1966, the proposed facilities hereinbefore described, as more fully described in the application in this proceeding, and to operate such facilities only to take natural gas supplies from producers who have received authorization from the Commission to sell natural gas to said Applicant.

(B) Applicant shall submit within 60 days after the expiration of the authorization granted by paragraph (A) above a statement in compliance with Section 157.7(b)(3) of the Commission's Regulations under the Natural Gas Act.

(C) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e) and (f) of Section 157.20 of said Regulations.

(D) The authorization granted in paragraph (A) above is limited to construction during the twelve months period commencing July 13, 1966, and the total expenditures for facilities to be constructed thereunder are limited to a maximum of $3,000,000, with no single project to exceed a cost of $500,000.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

NATIONAL SULPHUR COMPANY, DOCKET NO. CP66-282

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued July 26, 1966)

On January 24, 1966, National Sulphur Company (Applicant) filed in Docket No. CP66-282 an application, as supplemented on April 29, 1966, for a certificate of public convenience and necessity authorizing the construction and operation of facilities and the transportation and sale of natural gas in interstate commerce for resale, all as more fully set forth in the application as supplemented.

Applicant proposes to construct and operate approximately 10.3 miles of 4-inch pipeline from the outlet of its sulphur plant to a connection with the mainline of Texas Eastern Transmission Corporation (Texas Eastern), all in Cass County, Texas. Applicant will purchase sour gas from Humble Oil & Refining Company (Humble) in the Queen City Field, Cass County, Texas, process the gas for the removal of sulphur, and then sell the residue gas to Texas Eastern. Humble will sell gas to Applicant pursuant to a percentage-type contact which requires Humble to maintain a minimum deliverability potential of 3,000 Mcf per day for the first four years and 1,500 Mcf per day thereafter. The contract between Applicant and Texas Eastern provides for the sale of a daily contract quantity of 2,500 Mcf of gas per day at a rate of 13.0 cents per Mcf at 14.65 psia. Applicant estimates that there are approximately 10,000,000 Mcf of gas available to it for processing.

The estimated cost of the proposed facilities is $148,600, to be financed by a bank loan.

Although it filed a pipeline-type application, Applicant requests that it be permitted to file its gas sales contract with Texas Eastern as a special rate schedule in lieu of filing a pipeline tariff, that it be exempted from compliance with the Uniform System of Accounts, and that it be permitted to file producer-type annual reports in lieu of those required of pipeline companies. In view of the size and nature of the proposed operation, it is appropriate that these requests be granted.

After due notice no petition to intervene, notice of intervention or protest to the granting of the application has been received.

At a hearing held on July 21, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, as supplemented, and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, National Sulphur Company, a Texas corporation having its principal place of business in Midland, Texas, upon commencement of the transportation and sale of natural gas in interstate commerce hereinafter authorized, will be a "natural-gas company" within the meaning of the Natural Gas Act.

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, will be used in the transportation and sale of natural gas in interstate commerce subject to the jurisdiction of the Commission, and the construction and operation thereof and the transportation and sale of natural gas by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities and the transportation and sale of natural gas by Applicant are required by the public convenience and necessity, and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4) and (e) of Section 157.20 of such Regulations.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Applicant should comply with those Commission Regulations applicable to natural gas pipeline companies except as hereinafter ordered.

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Applicant, National Sulphur Company, to construct and operate facilities and to transport and sell natural gas in interstate commerce as hereinbefore described, all as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4) and (e) of Section 157.20 of such Regulations.

(C) The facilities authorized herein shall be completed and placed in actual operation and the transportation and sale of natural gas shall commence, as provided by paragraph (b) of Section 157.20 of the Regulations under the Natural Gas Act, within six months from the date of this order.

(D) Applicant shall comply with those Commission Regulations under the Natural Gas Act applicable to natural gas pipeline companies, except that

(a) Applicant shall file its gas sales contract with Texas Eastern as a special rate schedule pursuant to Section 154.52 of the Regulations under the Natural Gas Act, and to the extent that said contract does not conform to the requirements of Sections 154.32 and 154.33 of said Regulations the requirments of said sections are waived;

(b) Applicant is exempt from compliance with the Uniform System of Accounts Prescribed for Natural Gas Companies (Class D); and

(c) Applicant shall file those annual reports required to be filed by independent producers of natural gas in lieu of those required to be filed by natural gas pipeline companies pursuant to the Regulations under the Natural Gas Act.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

NEW ENGLAND POWER COMPANY, DOCKET NO. E-6950

ORDER APPROVING HEADWATER BENEFITS SETTLEMENT

(Issued July 26, 1966)

This is an order approving settlements for headwater benefits provided in the Connecticut River basin by licensed hydroelectric developments to non-Federal downstream developments. Section 13.1 of the Regulations under the Federal Power Act provides that headwater benefits settlements between non-Federal parties may be filed for approval by the Commission in lieu of a headwater benefits determination under Section 10(f) of the Federal Power Act (16 U.S.C. 803(f)).

The licensed developments providing headwater benefits are the New England Power Company's (Nepco's) Comerford and Moore developments, comprising part of Project No. 2077, on the Connecticut River and its Somerset and Harriman developments, comprising part of Project No. 2323, on the Deerfield River. Comerford and Moore provide benefits to the Western Massachusetts Electric Company's downstream Cabot development, Project No. 1889, on the Connecticut

River and to the Holyoke Water Power Company's downstream Project No. 2004, consisting of the Hadley Falls development on the Connecticut River, the Boatlock and Beebe Holbrook developments on the first level of the Connecticut Canal, and the Riverside development on the second level. Somerset and Harriman provide benefits to Western's downstream Gardner Falls development, Project No. 2334, on the Deerfield River and to Holyoke's downstream Project No. 2004.

By letter dated November 27, 1963, Nepco filed a contract with Western dated September 30, 1963. This contract, superseding a contract executed on December 16, 1930, is effective from October 1, 1963, until terminated by either Company giving written notice twelve months in advance of termination but not earlier than June 30, 1970. Both the present contract and that which it supersedes provide that the owner of the Cabot and Gardner Falls developments (Western) shall pay Nepco monthly amounts for upstream benefits computed by multiplying the gross operating head of the owner's plants by $2.78 per billion cubic feet of upstream storage capacity developed by Nepco. Under this formula, Western presently makes monthly payments of $1,670.64 for storage at Nepco's four upstream licensed developments.

By letter dated October 27, 1965, Nepco filed with the Commission a contract with Holyoke dated October 22, 1965. This contract is effective from January 1, 1964, until terminated by either Company giving written notice twelve months in advance of termination but not earlier than June 30, 1970. It provides that Holyoke shall make a monthly payment to Nepco of $1,200 for benefits provided to Project No. 2004 by Nepco's licensed upstream developments.

The Commission finds:

The aforesaid contracts constitute an effective and reasonable method for compensating the New England Power Company for headwater benefits provided by its licensed projects in the Connecticut River Basin to downstream projects of the Western Massachusetts Electric Company and Holyoke Water Power Company.

The Commission orders:

The aforesaid settlements are approved with respect to headwater benefits under Section 13.1 of the Regulations under the Federal Power Act until changed conditions may require further order of the Commission.

OPINION NO. 500

TRANSWESTERN PIPELINE COMPANY, DOCKET NOS. CP63-204 AND CP64-91; GULF PACIFIC PIPELINE COMPANY, DOCKET NO. CP63-223; EL PASO NATURAL GAS COMPANY, DOCKET NO. CP64-76

OPINION AND ORDER GRANTING AND DENYING CERTIFICATES

(Issued July 26, 1966)*

Syllabus

1. There is no validity to argument that determination of necessity of providing natural gas to a community to combat air pollution is solely for local authorities. P. 185.

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*Initial decision appears on p. 262. Ordering clauses corrected by order issued August 19, 1966 and rehearing granted by order issued September 21, 1966, 36 FPC 491, 658. Confirmed and rehearing denied by Opinion No. 500-A issued December 9, 1966, 36 FPC 1010. Affirmed. *Southern California Edison Co.* v. *F.P.C.*, 387 F. 2d 619 (CA3-1967). Cert. denied, 392 U.S. 909 (1968).

2. **Record fails to demonstrate that introduction into Los Angeles market of enough gas to eliminate completely the burning of fuel oil during winter months would have appreciable effect upon smog problem or any beneficial effect on health of people. P. 189.**
3. **Proposal certificated here is adequate to maintain existing level of natural gas service in Los Angeles area at least through 1968. P. 190.**
4. **Commission *discusses* need for additional gas in the Southern California market. P. 191.**
5. **Technology with respect to treating power plant emissions to reduce pollutants is in a state of change; Gulf Pacific with its fixed supply and customers under 20-year contract is peculiarly ill-adapted to meet the situation. P. 193.**
6. **El Paso-Transwestern proposal is flexible enough to accommodate future developments in energy needs of rapidly changing market. P. 194.**
7. **Commission *discusses* effect of nuclear energy on long-term energy requirements of Southern California market. PP. 197–199.**
8. **Prospect of committing two electric companies to using natural gas exclusively to generate power until 1988 is not an attractive alternative to inherently flexible TSP [Tailored Supply Program], either from an economic or air pollution standpoint. P. 199.**
9. **Whatever past effect of Gulf Pacific proposal in spurring competitor applicants to greater efforts, it cannot outweigh its competitive disadvantages insofar as present proposal is concerned. P. 200.**
10. **Absent unusual circumstances there is no reason to certificate duplicative service to particular industrial customer where local distributor indicates willingness and ability to serve. P. 201.**
11. **Question here is not determination of an in-line price for jurisdictional sale but whether certification of a pipeline dependent upon two very large nonjurisdictional sales at prices involved is required by present or future public convenience and necessity. P. 202.**
12. **Purchase of gas by distributors from producers is a direct sale not subject to Commission jurisdiction under Section 1(b) of the Gas Act; proposed transportation thereof by pipeline in interstate commerce is jurisdictional. P. 202.**
13. **To certificate instant direct sale at above in-line ceiling price not subject to modification up or down when just and reasonable price for area is established would seriously jeopardize Commission's continuing control over price at which gas is sold in interstate commerce for resale, as well as the amount of gas available for this market. P. 203.**
14. **Certification of the Gulf Pacific proposal under rate structure proposed here would have substantial adverse impact on public interest. P. 205.**
15. **Commission *discusses* suggestion that objections to producer's field price [where, as here, sales are nonjurisdictional] would be overcome by utilization of conditioning powers under Section 7(c) of the Act. P. 205.**
16. **Whether costs upon which rates will necessarily be based are treated on an incremental or rolled-in basis, Commission believes a marked short-term advantage in El Paso-Transwestern TSP proposal can be demonstrated and nothing is likely to occur in foreseeable future to indicate such advantage will be overcome. P. 206.**

17. Concept that cheap expandibility of existing pipeline resources is something to be hoarded rather than taken advantage of at earliest feasible opportunity does not make economic sense. P. 209.
18. Section 2.61(a) of Rules having modified 12-year deliverability requirement and Transwestern having shown ability to attach additional reserves, Commission accepts its reserve and deliverability showing. P. 212.
19. The Tailored Supply Program of El Paso and Transwestern most adequately meets needs of Southern California market and is most consistent with public interest. P. 213.
20. On basis of particular situation in Los Angeles area, evidence in record and current state of technology and scientific understanding of air pollutants and their effect on human beings, Commission *concludes* that none of proposals here would have any appreciable effect upon health of people of Los Angeles. P. 213.
21. One of most compelling reasons for certificating TSP is that it leaves Federal Power Commission and California Commission in a position to take whatever action future circumstances may require. P. 214.
22. Producers proposed sale to distributors at above in-line price would encourage other major producers to remove large blocks of gas from interstate market to inevitable detriment of jurisdictional customers. P. 214.
23. There is no merit to Gulf Pacific contention that it would introduce competition in Southern California market to benefit of consumers. P. 214.
24. Rejection of Gulf Pacific does not mean that under different supply and demand situations an industrial pipeline performing solely interstate transportation functions for a few large natural gas consumers would not be consistent with public interest. P. 215.
25. Appropriate supply of gas for Southern California market is one which, while meeting peak requirements, would keep total levels of gas consumption at approximately present levels. P. 215.
26. TSP proposal is clearly preferred to Gulf Pacific because it (1) more clearly meets peak day and annual market needs; (2) is substantially cheaper on both rolled-in and incremental basis; (3) avoids serious problems of high field prices upon which Gulf Pacific is predicated; and (4) provides for necessary flexibility in use of gas in market over next two decades of rapid change. P. 215.
27. Certification of El Paso and Transwestern conditioned on filing of rates based upon cost of service submitted here adjusted to reflect rates of return of 6⅛ percent and 6¼ percent, respectively. P. 216.
28. It would not be appropriate to impose flow-through policy of *Alabama-Tennessee* in this certificate proceeding where no previous consideration was given matter with respect to one pipeline and only limited evidence was introduced respecting the other. P. 217.
29. In a proceeding upon competitive proposals under Section 7 of the Natural Gas Act, Commission *issues* certificates of public convenience and necessity to Transwestern and El Paso and *denies* application filed by Gulf Pacific.

Commissioner O'Connor *dissenting.*

Raybourne Thompson, James W. McCartney and *John S. Battle, Jr.* for Transwestern Pipeline Company.

Harry S. Littman, Jack Werner, Richard Littell, Harold L. Talisman, Robert E. Shaw, Melvin Richter, Richard Richards, W. C. Braden, Jr., John A. Ferguson, Jr., L. R. Pankonien and *W. C. Alletag* for Gulf Pacific Pipeline Company.

Malcolm T. Dungan, Gordon E. Davis, Bart Koeppen, Stanley S. Harris, Jeremiah C. Collins, C. Frank Reifsnyder, Allen R. Grambling and *E. J. Najaiko* for El Paso Natural Gas Company.

Harold W. Kennedy and *David D. Mix* for Air Pollution Control District of Los Angeles County, California.

Harry A. Poth, Jr., Richard M. Merriman, Peyton G. Bowman, III and *N. H. Powell* for Arizona Public Service Company.

Bernard Foster, Jr., Edwin A. Collier and *Stuart J. Scott* for The Atlantic Refining Company.

Louis Sherman, Laurence Cohen, William T. Dodd and *C. J. Haggerty* for Building Construction Trades Department, AFL–CIO.

Henry F. Lippitt, II for California Gas Producers Association and Oil Producers Agency of California.

Malcolm T. Dungan and *Gordon E. Davis* for California Manufacturers Association.

Roger Arnebergh, Alfred H. Driscoll and *Gilmore Tillman* for the City of Los Angeles, California.

Frank P. Saponaro, Jr., Martin L. Friedman and *Michael J. Shea* for Colorado Interstate Gas Company.

Jerome J. McGrath, John A. McGrath and *Thomas C. Williams* for Fuels Research Council, Inc., National Coal Association and United Mine Workers of America.

R. Clyde Hargrove, Jesse H. Foster, Jr., William H. Holloway, Carl Illig and *A. C. McClain* for Humble Oil & Refining Company.

Sherman Chickering, C. Hayden Ames and *Stanley Jewell* for San Diego Gas & Electric Company.

Rollin E. Woodbury, William E. Marx, Harry W. Sturges, Jr. and *William R. Connole* for Southern California Edison Company.

Harry P. Letton, Jr., John Ormasa, K. R. Edsall, J. David Mann, Jr., Robert H. Young, Arthur B. Edgeworth, Milford Springer, Robert M. Olson, Jr., Oscar C. Sattinger, William L. Cole, R. D. Twomey, Jr., John P. Egan and *Frederick Moring* for Southern California Gas Company, Southern Counties Gas Company of California and Pacific Lighting Gas Supply Company.

Mrs. Michael Levee for Stamp Out Smog.

Gerald H. Trautman for Standard Oil Company of California.

Philip K. Verleger, Max K. Jamison and *John P. Killeen* for Western Oil and Gas Association.

Sheldon Rosenthal, Richard E. Tuttle and *J. Calvin Simpson* for the People of the State of California and the Public Utilities Commission of the State of California.

Richard W. Sabin for Public Utilities Commissioner of Oregon.

Morton L. Simons and *Kent H. Brown* for Public Service Commission of the State of New York.

Herbert E. Squires, Alan R. Squires and *Joseph C. Bruno* for Pennsylvania Public Utility Commission.

Robert E. Simpson for Washington Utilities & Transportation Commission.

William I. Harkaway and *James N. Horwood* for the Staff of the Federal Power Commission.

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Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge

WHITE, *Chairman:*

Introduction

This proceeding involves a comparative hearing under Section 7 of the Natural Gas Act to determine which of the competitive applications pending before us in this consolidated proceeding is best adapted to deliver additional natural gas to the Southern California market. Southern California Edison Company (Edison) and the Department of Water and Power of the City of Los Angeles, California (LADWP) propose to purchase gas to fuel their electric generating plants from Humble Oil & Refining Company and other producers in the Katy and Pledger Gas Fields located on the Texas Gulf Coast in Railroad District No. 3. The gas would be transported from the fields to the generating plants by Gulf Pacific Pipeline Company, a subsidiary of Tennessee Gas Transmission Company (TGT)[1] (see attached map). El Paso Natural Gas Company and Transwestern Pipeline Company propose to purchase gas in the Permian and San Juan Basins and sell additional amounts to their present customers, the local distributors in Southern California. These form the Pacific Lighting Group (Pacific Lighting), which is composed of Southern California Gas Company (So Cal Gas), Southern Counties

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[1] Now Tenneco Inc.

Gas Company of California (So Counties) and Pacific Lighting Gas Supply Company (Pac Ltg Supply),[2] all subsidiaries of the Pacific Lighting Corporation. The matter is now before the Commission upon exceptions to the decision of Presiding Examiner Alvin A. Kurtz issued December 16, 1965, *infra*, p. 262.

The issues involved in this proceeding include those traditionally found in Section 7 cases, such as market, adequacy of gas supply and cost of service. In addition, there are other important and controverted issues which have arisen in but few cases. These include the problem of air pollution in the Los Angeles area and the effect that approval of a direct field sale of a large block of gas for use as boiler fuel would have on the price and supply of gas available to interstate resale consumers. Other issues include a determination of which project will meet the needs of the market most economically; the desirability of introducing another competing pipeline into the Southern California market; and the dedication of new producing areas to the California market. Since this is a comparative proceeding within the meaning of the *Ashbacker* doctrine[3] each of the competing proposals will be considered on a comparative basis.

Background and Procedure

In 1946 El Paso became the first interstate supplier of natural gas to the Southern California market and remained the sole out-of-state supplier until 1960 when the Commission certificated Transwestern (22 FPC 391). In the intervening years there were other moves to deliver more gas to the area.

For many years Edison has purchased gas from Pacific Lighting under interruptible rate schedules. These purchases have become increasingly important due to the greater use of steam generation, which has risen from 4 percent in 1940 to its present 80 percent of Edison's total generation. In 1956 in order to firm up its gas supply Edison entered into a contract with El Paso for the direct sale of 100,000 Mcfd (thousand cubic feet per day) of gas to be carried in the pipelines of Pacific Lighting. However, because of the effect the direct sale would have on prices in the field and because of the proposal's inflexibility in accommodating the changing requirements of the California market, the Commission did not approve it and required that El Paso's sales be made to Pacific Lighting for resale.[4]

In 1957 Edison entered into an agency agreement with TGT to supply its fuel requirements. The result was the so-called "Pemex Project" by which Humble was to sell gas to Edison in the Gulf Coast area of Texas. The gas was to be carried in a pipeline running through Mexico and was to be delivered to Edison's generating plants in the Los Angeles area. When certain defects in the project became apparent, the company withdrew the proposal during the course of the hearing (Docket No. CP61-172, *et al.*).

In 1958 El Paso filed an application to increase its supply of gas to the California market. In this application for the so-called "Rock Springs Project" (Docket No. G-16235), El Paso sought to build a new pipeline from Green River, Wyoming, to the California border to increase its deliveries to the Pacific Lighting Group by some 475,000 Mcfd. Because there was not an immediate market for much of the gas and because there appeared to be less costly ways of delivering gas to California, the Commission denied El Paso's application on July 12, 1963 (30 FPC 77). In so doing the Commission said it would institute a proceeding "to determine how the long term needs for natural gas deliveries to

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[2] Now Pacific Lighting Service and Supply Company.

[3] *Ashbacker Radio Corp.* v. *F.C.C.*, 326 U.S. 327

[4] *El Paso Natural Gas Co.*, 22 FPC 900.

Southern California may be met in the manner which is most desirable from the standpoint of the public interest." The Commission added that: "In the new proceeding further opportunity will be given for the presentation of evidence on alternative methods for serving the Southern California market. These methods may include, in addition to the pending Gulf Pacific proposal, expansion of El Paso's Southern Division's facilities, expansion of Transwestern, and the delivery of gas by PGT into Northern California as well as a line from the Rocky Mountain area to California. We do not exclude other possibilities." (30 FPC 92–93.) The pending applications are an outgrowth of that proceeding.

El Paso's Proposals

El Paso's principal transportation system consists of two 30-inch pipelines, looped double or more, extending westward from the Permian Basin in Western Texas and the San Juan Basin in Northern New Mexico to the California border. There is also a lateral extending to the Texas Panhandle. El Paso sells gas in several states including New Mexico and Arizona but the bulk of its gas, amounting to 1,130,000 Mcfd,[5] is sold to the Pacific Lighting Group and 1,025,000 (Mcfd) to Pacific Gas & Electric Company, at the California border. El Paso is presently subject to an order of the United States Supreme Court[6] to divest itself of its Pacific Northwest Division which largely consists of a pipeline extending from the San Juan Basin to the Canadian border.

On September 30, 1963, El Paso filed its original application in Docket No. CP64–76 to sell and deliver an additional 250,000 Mcfd to So Cal Gas and So Counties at the California border. The necessary facilities, consisting of loops and compression on the San Juan mainline and one short loop on the Plains-to-Gallup crossover, are estimated to cost $50,442,000. The combination of the 250,000 Mcfd from El Paso, and 340,000 Mcfd of contract demand gas from Transwestern as requested in Docket Nos. CP63–204 (50 M^{2}cfd) and CP64–91 (290 M^{2}cfd) would be used by So Cal Gas and So Counties for what Pacific Lighting calls its "Tailored Supply Program" (TSP). When its deliveries reach 200,000 Mcfd under TSP El Paso proposes to reduce its rates by ¾ of a cent to all its customers both in and outside California. It also has committed itself to pass on to its customers producer rate decreases.

In an amendment to its application filed November 12, 1963, El Paso offers as a separate proposal to deliver to Pacific Lighting at the Colorado River up to 575,000 Mcfd,[7] which when added to the additional 290,000 Mcfd contract demand gas proposed by Transwestern in Docket No. CP64–91 would approximately equal the 865,000 Mcfd proposed by Gulf Pacific. This would require El Paso to construct 393 miles of new 30-inch line from Chaco in the San Juan Field to the California border at Needles, extensive looping on the line between Permian and San Juan and additional compression, all costing $134,207,000. On the record El Paso showed how its present system could be expanded, even without the Chaco-Needles line, to deliver 575,000 Mcfd. When its deliveries under this program reach 500,000 Mcfd, it would reduce its rates to all of its customers by an additional ¼ of a cent, making one cent in all.

In its amended application El Paso also proposed to deliver the whole 865,000 Mcfd from the Colorado River to Los Angeles and deliver it as required by this Commission if Pacific Lighting could not transport the gas. El Paso estimated the capital cost of this transportation to be $63,448,000.

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[5] An additional 70 million cubic feet per day (M^{2}cfd) may be sold on an interim basis by order of March 23, 1965, in Docket No. CP63–296, 33 FPC 592.

[6] *United States* v. *El Paso Natural Gas Co.*, 376 U.S. 651.

[7] At 14.9 pounds per square inch absolute (psia). It equals 581,613 Mcfd at 14.73 psia.

Transwestern's Proposals

Transwestern's pipeline consists principally of a 30-inch mainline which connects with two supply laterals near Roswell, New Mexico, and extends westward 645 miles across New Mexico and Arizona to the California border where it delivers gas to Pac Ltg Supply. Its supply laterals extend into the Panhandle-Hugoton-Anadarko areas of Texas and Oklahoma and to the Permian Basin. Transwestern is presently authorized to sell and deliver to Pacific Lighting up to 345,000 Mcf per day of natural gas on an annual average basis, of which 300,000 Mcf per day are sold under its contract demand Rate Schedule CDQ–1 at 41.8 cents per Mcf and additional volumes are sold under its overrun Rate Schedule LX at 21 cents per Mcf. On an interim basis it is authorized to deliver 440,000 Mcfd annually.[8] The optimum capacity of its present facilities, however, is 640,000 Mcfd.

In its applications in Docket Nos. CP63–204, and CP64–91, Transwestern proposes to install facilities, estimated to cost $44,188,700 and to increase its contract demand deliveries to Pacific Ltg Supply in steps from 300,000 Mcf per day to 640,000 Mcf per day. It proposes to reduce its CDQ–1 rate from the present 41.8 cents to 32.7 cents as the TSP increments take effect, and suggests further reductions as a result of the *Permian* case, AR61–1, Opinion No. 468, 34 FPC 159, issued August 5, 1965. The TSP increased deliveries as applied for here by El Paso and Transwestern may be summarized as follows:

[In M^{2}cf]

Date	Transwestern (at 14.73 psia)		El Paso Daily Contract Quantity—	
	Contract Demand Quantity	Maximum Daily Demand	at 14.9 psia	at 14.73 psia
Present Permanent Authorization	300	345	1,130	1,143.0
Nov. 1, 1963	350	460		
Nov. 1, 1964	450	535		
Nov. 1, 1965	535	640	1,280	1,294.7
Nov. 1, 1966			1,330	1,345.3
Jan. 1, 1967	640	640		
Nov. 1, 1967			1,380	1,395.9
Increase	340	295	250	252.9

Gulf Pacific Proposal

On February 12, 1963, Gulf Pacific filed its application in Docket No. CP63–223. Gulf Pacific, a wholly owned subsidiary of TGT formed solely for this purpose, proposes to construct 1,398 miles of 36-inch pipeline from the Katy Field to Los Angeles, 45 miles of 20-inch line from the Pledger Field to Katy, Texas, 102 miles of delivery lines in California and 15 compressor stations. The total estimated cost of these facilities is $313,923,000. The gas is to be purchased by Edison and LADWP directly from the producers pursuant to 20-year contracts. The contracts fix the field price at 18.5 cents per Mcf[9] for the first four years with a one-cent escalation in each successive 4-year period. Gulf Pacific proposes to transport 694,430 Mcfd during the first year of service and, after five years, 865,095 Mcfd, of which 570,845 Mcfd will be transported for Edison and

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[8] Order of December 27, 1965, in Docket No. CP64–34, 34 FPC 1560.

[9] At 14.65 pounds per square inch absolute (psia). At 14.73 psia the price would be 18.6.

294,250 Mcfd for LADWP, all at 14.73 psia.[10] The proposed transportation contracts provide for a cost of service formula.

Specifically referring to its *Rock Springs* opinion the Commission by order of October 21, 1963, consolidated the applications of Transwestern, El Paso and Gulf Pacific. After a prehearing conference, and the exchange of prepared testimony the hearings began on June 1, 1964 and concluded March 17, 1965. The 169 days of hearing amassed a transcript of 28,022 pages and 897 exhibits.

Presiding Examiner's Decision

The examiner's decision would grant a certificate to Gulf Pacific for its proposed project and deny certificates to El Paso and Transwestern. In reaching this result the examiner criticized Transwestern's and El Paso's gas supplies. He found that Los Angeles' air pollution problem would be reduced significantly by the increased use of natural gas under boilers. He found the market sufficient in the future to receive the Gulf Pacific gas and to leave Pacific Lighting with a larger interruptible market available than in 1963 and 1964. He also found that Pacific Lighting effectively controlled the market in the Los Angeles area and had not met the demands of the electric companies. He further found that the competition which would result from the certification of Gulf Pacific would have a beneficial effect upon the customers of Pacific Lighting.

After the issuance of the examiner's decision and the filing of exceptions and answers thereto, the Department of Health, Education, and Welfare (HEW) requested intervention and filed a brief on the air pollution issue. By order of March 4, 1966, 35 FPC 334, the Commission permitted HEW to participate in the oral argument held March 28–29, 1966, as *amicus curiae*.

Alternative Proposals

To summarize, we have before us several proposals and variations:

(1) Under the tailored supply program (TSP) El Paso would deliver an additional 250,000 Mcfd (at 14.9 psia, or 252,875 Mcfd at 14.73 psia) and Transwestern would deliver an additional 340,000 Mcfd (14.73 psia) contract demand gas in steps to the full amount on November 1, 1967, which represents 216 billion cubic feet (M^3cf) a year at 100 percent load factor.

(2) Under its enlarged proposal El Paso would deliver to Pacific Lighting an additional 575,000 Mcfd (at 14.9 psia, 581,613 Mcfd at 14.73 psia) instead of 250,000 Mcfd. With Transwestern's proposed additional deliveries of 340,000 Mcfd (14.73 psia) this would total about 922,000 Mcfd, or 337 M^3cf a year. To effect these deliveries El Paso would build its proposed Chaco-Needles line or, alternatively, increase the capacity of its present system. El Paso has also offered to build a pipeline to carry the 575,000 Mcfd, plus 290,000 Mcfd from Transwestern, to Los Angeles and deliver it according to the direction of the Commission.

(3) Gulf Pacific proposes to transport from the Texas Gulf Coast amounts of gas increasing to 865,095 Mcfd in the sixth year (at 14.73 psia or 316 M^3cf annually), to the power plants of Edison and LADWP. Under a 20-year contract the gas would be sold by Humble and other producers directly to Edison and LADWP.

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[10] Gulf Pacific will supply gas to the powerplants as follows (Mcf at 14.73 psia):

	Daily volume, Mcfd	Annual, Mcf
Contract Year:		
1	694, 430	253, 466, 950
2	759, 165	277, 095, 225
3	800, 360	292, 131, 400
4	847, 440	309, 315, 600
5	859, 210	313, 611, 650
6 through 20	865, 095	315, 759, 675

(4) As a variation, the Public Utilities Commission of California has recommended that a certificate be granted to Gulf Pacific plus Transwestern at an additional daily contract quantity of 235,000 Mcfd, representing one of the steps in the TSP increases. This would be an increase of 1,100,000 Mcfd or 402 M^3cf a year as compared to 337 M^3cf per year under El Paso's enlarged proposal.

As set forth below we shall deny a certificate to the Gulf Pacific project and grant certificates to El Paso and Transwestern for the TSP program. We are also providing that El Paso and Transwestern file revised rates reflecting the lower costs of increased deliveries of gas, the rates of return presently allowed and limitations on the inclusion of prepayments for gas in computing rate bases. The record in this proceeding is not adequate upon which to determine whether the benefits of liberalized depreciation should be flowed-through to the pipelines' customers. We are therefore initiating a separate proceeding in which to make a determination on this matter.

AIR POLLUTION

Pollution of the atmosphere is properly a matter of growing concern throughout the nation. The problem is in part due to the increasing concentration of our population in large metropolitan areas and to the noxious byproducts of the highly industrialized standard of living which we otherwise enjoy. This awakening of public concern finds expression in local, state and federal legislation, and in the increased emphasis now being given to research into the causes and the means of controlling atmospheric pollution.

The County of Los Angeles, pursuant to authority delegated to it by the State (California Health and Safety Code, Chap. 2. Div. 20) has passed stringent air pollution control measures. The most important air pollution provisions relevant to the present proceeding are Rules 62 and 62.1 of the Los Angeles County Air Pollution Control District (APCD). Rule 62 forbids, with certain exceptions, the burning of any fuels with more than a slight amount of sulphur[11] between April 15 and November 15. Liquid fuels, however, may be burned when gas is not available due to accident or failure of the supplier. Rule 62.1 applies the same rules November 16 to April 14, but permits the use of liquid fuel when the supplier "interrupts the delivery of gaseous fuel to the user." In other words during the winter gas must be utilized if available.

An issue has been raised in this case as to the manner in which the Commission is authorized to take the matter of air pollution into consideration in a certificate proceeding under the Natural Gas Act. In *F.P.C.* v. *Transcontinental Gas Pipe Line Corporation*, 365 U.S. 1, the United States Supreme Court held that end use of gas was properly of concern to us, and made it clear that air pollution was a relevant consideration although the air pollution evidence there was insufficient to overcome the other objections to the particular project. There is no validity, in our opinion, to the argument that the determination of the necessity of providing natural gas to a community to combat air pollution is solely for local authorities. Specifically, the *Air Pollution Control Act*, 42 U.S.C. § 1857, *et seq.*, which is largely concerned with research and with abating instances of air pollution in cooperation with state agencies, does not deprive this Commission of its statutory authority and responsibility to make an independent determination on the basis of an evaluation of all relevant circumstances as to whether applications for pipeline certificates are required by the public convenience and necessity. Although local regulation is an important factor which we take fully into account in appraising any air pollution issue, it does not and cannot bind this Commission.

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[11] Gaseous fuel must contain no more than 50 grains per 100 cubic feet, calculated as hydrogen sulphide at standard conditions. Liquid or solid fuel is limited to a sulphur content of 0.5 percent by weight.

The term "air pollution" does not describe a single phenomenon which is exactly the same wherever it is found. Rather, it encompasses anything from an unpleasant odor in the amtosphere to a mixture of toxic gases, solid matter and even radioactive material. In some areas atmospheric pollution is aggravated by a photochemical reaction of the gases in the air. In the Los Angeles Basin the principal ingredients contributing to the air pollution problem are: (1) Hydrocarbons and carbon monoxide, which are emitted as the result of burning gasoline in automobiles and other internal combustion engines; (2) Oxides of nitrogen, which result from any combustion, including fuel oil and natural gas; (3) Sulphur dioxide (SO_2)—a colorless, toxic gas produced by burning sulphur or sulphur compounds—which in the atmosphere changes to sulphur trioxide (SO_3) and eventually to sulphuric acid and other sulphates; and (4) Liquid and solid particles in the atmosphere known as aerosols or particulates, some of which are formed in the atmosphere as the result of a photochemical reaction and others which are emitted from industrial and power plant stacks.

More than 80 percent of the total contaminants emitted into the Los Angeles atmosphere come from automobiles and other vehicles. These vehicles alone are responsible for 95 percent of the carbon monoxide, 73 percent of the hydrocarbons, and 50 percent of the nitrogen oxides. According to APCD statistics, power plants account for only 3.5 percent of the total emissions during the winter months, when some fuel oil is being burned, and even less in the summer. Other industrial sources, including petroleum refinery and chemical manufacturing, are responsible for the remaining emissions.

The Los Angeles area's air pollution is complicated by the geographic and meteorological conditions which exist in the Los Angeles Basin. The area, covering about 400 square miles, is enclosed by the Pacific Ocean to the west and by hills on the other three sides. The basin is subject to a condition of "temperature inversion," the result of a layer of warm air at a level above the ground, which confines the pollutants. Winds tend to be weak, and although there is an offshore breeze at night and early morning, there is an onshore breeze in early afternoon. As a result, the pollutants are often blown out to sea and then back again.

It is plain on this record that Los Angeles has an acute air pollution problem. We also accept the considerable medical evidence that this air pollution may have some deleterious effect upon the health of the residents of Los Angeles as contended by the Los Angeles County Medical Society, the APCD and others, although the extent of the deleterious effect is a matter of dispute. While common sense tells us that any actual or potential danger from air pollution will be decreased if there is a substantial reduction in the concentrations of pollutants in the Los Angeles atmosphere, our resolution of this issue would be heavily influenced by a clear indication that the existing levels are either well within levels of tolerance or well above such levels. The many health experts who participated in this proceeding have not defined any such standard with respect to the various aspects of the air pollution question with which this record deals, and it does not lie within the competence of this Commission to do so. The record is sufficient, however, to permit us to arrive at reasonable conclusions as to the effect the use of greater volumes of natural gas in Los Angeles is likely to have on air pollution, which we can weigh along with the other factors we are required to consider under Section 7 of the Natural Gas Act in determining which, if any, of the proposals before us should be certificated.

Smog

Photochemical smog is a visible phenomenon characterized by haze in the atmosphere and eye irritation. It is the result of a photochemical reaction between nitrogen dioxide (NO_2) a brown irritating gas formed by the oxidation of nitric oxide (NO) produced by any combustion, and hydrocarbons produced largely by the incomplete combustion of gasoline in automobiles. It results in the formation of ozone (O_3) and a series of irritating organic compounds, which form fine liquid or solid particles in the atmosphere called aerosols or particulates. This photochemical process which creates smog is activated by strong sunlight penetrating the stagnant atmosphere. Smog is a more severe problem in summer months than in the winter.

It is important to distinguish the photochemical smog condition of Los Angeles from the more common type of air pollution which has historically been present in large cities throughout the world. Photochemical smog may be characterized as "oxidant", that is, it readily gives up oxygen. It is accompanied by large amounts of ozone in the atmosphere. Photochemical smog is typically worse on warm, sunny days. The more usual type of air pollution is ordinarily associated with soot, sulphur oxides and a variety of industrial emissions and is most pronounced on cold foggy days. This may be characterized as a "reducing" smog, that is, it tends to remove oxygen.

The aerosols or particulates are produced not only as a result of the photochemical reaction but also have other origins. These include emissions into the atmosphere from power plants, industries and motor vehicles and the oxidation of sulphur dioxide (SO_2) described below into sulphates. The aerosols emitted from power plants and industrial stacks form plumes and, with the aerosols found in the atmosphere, reduce visibility. Some are said to cause damage to vegetation and other property and possibly to increase the damage of other pollutants to lung tissue. The record shows that, based upon 1962 APCD statistics, particulates resulting from the burning of liquid fuel comprise 28 percent of all aerosols emitted directly into the atmosphere. Substituting gas in both power plants and industries would reduce all particulates emitted by about 25 percent. There is no evidence of the total amount of aerosols in the atmosphere, including the photochemical aerosols, as distinguished from those emitted by various sources. We cannot conclude, therefore, that this reduction would have any appreciable effect on the overall concentration of aerosols in the atmosphere. In any event, it is obvious that aerosols emitted from the high stacks of industries and power plants would have less effect on the concentration near the surface of the ground than aerosols from other sources. We are told that there will be fewer particulates in the air if natural gas is the only fuel used in power plants, but there is no showing that the amounts produced under current practice are above or below permissible levels.

The evidence in this proceeding makes quite clear that the burning of additional gas rather than fuel oil in the Los Angeles area will have little effect on the photochemical smog, and that such effect as it might have would not necessarily be beneficial.[13] In 1962 over half the total amount of nitrogen oxides in the Los Angeles atmosphere came from motor vehicles. It is contended in the present proceeding that the substitution of natural gas for the burning of fuel oil would contribute to the alleviation of the photochemical smog problem. The evidence, however, is conflicting as to the results which would flow from such a substitution. A Public Health Service publication introduced in evidence shows that natural gas emits almost twice as much nitrogen oxide in pounds per million Btu as is emitted as a result of burning oil. A Public Health Service expert witness testified in the present proceeding, however, that substituting natural gas in place of oil in all the power plants in the Los Angeles Basin in 1962 would have reduced nitrogen oxide emissions by only 7.3 percent. Even assuming that the testimony in the present proceeding is the more accurate viewpoint, the evidence shows that the substitution of gas for all uses of oil including industrial uses would have reduced nitrogen oxide by only 11.4 percent. The evidence in the record does not permit a conclusion that such a moderate reduction, or any reduction of less than 50 percent, would have a beneficial effect on photochemical smog.

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[13] In fact, evidence in the record indicates that reducing the amounts of nitrogen oxide emitted into the atmosphere might increase smog by making it easier for hydrocarbons to bring about the production of ozone, aerosol and peroxyacetyl-nitrates.

Further evidence in the record relating to seasonal concentrations of nitrogen oxides in Los Angeles adds weight to our conclusion that substitution of gas for oil will not alleviate the smog problem in any significant way. While there is a smog problem in winter, the problem admittedly is considerably worse in summer (when the power plants are burning gas exclusively) because there is more sunlight. Thus the record shows an average winter visibility at the Los Angeles Civic Center of 6.4 miles and an average summer visibility of 3.1 miles. The January 1963 average daily ozone maximum in downtown Los Angeles was .05 ppm (parts per million) while in July it was .18 ppm. These variations do not appear to relate to the nitrogen oxides emitted by power plants since, as noted earlier, the APCD rules require natural gas to be used by power plants during the summer months.

In any event, it is far from clear that the burning of more natural gas is the answer to controlling emissions of nitrogen oxides in the power plants. Consideration of all the evidence indicates that one of the most significant factors in controlling nitrogen oxide emissions in power plants is unit design. A study was introduced in the record which shows a higher concentration of nitrogen oxides from burning oil at Edison's El Segundo plant; however, a sample of units from other power stations across the nation had quite different results, with gas-fired units often exceeding oil-fired units in nitrogen oxide emissions by significant amounts. This would tend to indicate the absence of a significant correlation between the type of fuel used in generators nationwide and nitrogen oxide emissions. Moreover, the consultants who conducted the study concluded that the major element in controlling nitrogen oxide emissions was unit design. As a result of this study a two-stage combustion unit was designed to minimize nitrogen oxide emissions and incorporated into two units at Edison's Mandalay Station in Ventura County and in two units at its Huntington Beach Station in Orange County. An Edison witness testified that this device reduced nitrogen oxide emissions from Edison's plants from 600 ppm to 350 ppm for oil-fired generators and from 450 to 250 ppm for gas-fired generators. The record indicates that LADWAP has not converted its generators to this two-stage design nor has the APCD promulgated any rule requiring it, even though this design could reduce nitrogen oxide emissions by almost 50 percent. It would seem that this design has far more potential for reducing the emission of nitrogen oxides in the Los Angeles Basin than does the introduction of additional natural gas.

Because burning gas rather than oil would, at most, only modestly reduce nitrogen oxides emitted and because there is considerable doubt whether even a substantial reduction in nitrogen oxides would affect photochemical smog, it is our opinion that year-round burning of gas in power plants would have no appreciable effect on the photochemical smog problem in Los Angeles. Likewise, there is no evidence that reduction in emitted aerosols by the burning of natural gas instead of oil would appreciably affect the overall concentration of aerosols in the atmosphere.

Sulphur Dioxide

The contribution of SO_2 to the pollution of the Los Angeles atmosphere has been considered at great length in this proceeding. Attention has also been given to the derivative sulphates although the record on the concentration of sulphates in the Los Angeles atmosphere is ambiguous. For example, it appears that there have been very high concentrations at Long Beach, but this area is adjacent to sulphate producing industries. It is appropriate to treat the sulphates, since they result from the oxidation of SO_2, as part of the SO_2 problem.

The burning of natural gas produces minimal amounts of sulphur dioxide. While motor vehicles and non-combustion sources, such as chemical manufacturing, produce some SO_2, about 75 percent of the emissions of sulphur dioxide come from the burning of liquid fuel oil. It is significant, however, that in summer when no fuel oil is being burned in Los Angeles, concentrations are still about half of what they are in the winter. This would seem to indicate that only part of the winter emissions of SO_2 go to raise the concentration, probably because SO_2 is emitted from power plant stacks mixed with hot gases high in the air.

The witness from HEW's Public Health Service presented by the staff stated his opinion that a concentration of 0.1 ppm is about the lowest 24-hour average concentration which has been associated with undesirable effects on human beings. Without citing any materials of which we could take official notice, HEW now states in pleadings and oral argument that there is no scientific assurance that lower concentrations will not affect human health. As commendable as this view may be in terms of scientific caution, it simply does not provide this Commission with any meaningful guidance.[13] Taking the 0.1 ppm standard as a basis of comparison the record shows that in the four-year period between 1960–1963 it was exceeded at measuring stations on only five days at El Segundo, one at Inglewood, and one at Dominguez. These locations are at least comparable to monitoring stations in other cities where this standard is exceeded much more often.

During the year 1963 alone this standard was exceeded on 42 days in Washington, 75 days in Philadelphia, 186 days in Chicago and 196 days in New York. The 24-hour maximum concentrations in various other cities in 1963 exceeded any of the highest days in the Los Angeles area in the years 1960–1963. Thus the concentration rose to 0.46 ppm in Philadelphia, 0.79 ppm in Chicago and 0.85 ppm in New York while the highest concentration in the Los Angeles area was 0.19 ppm at Inglewood on March 27, 1963. While it is not our position, of course, that other cities' greater concentrations of SO_2 justify the presence of this pollutant in the Los Angeles atmosphere, the Commission feels that the data provided above are helpful in placing Los Angeles' problem in context.

Conclusion on Air Pollution

To summarize, the record in this proceeding fails to demonstrate that introduction into the Los Angeles market of enough natural gas to eliminate completely the burning of fuel oil during the winter months would have an appreciable effect upon the area's smog problem. The additional gas would reduce the concentration of sulphur dioxide somewhat but there is no showing that using only gas in power plant boilers would have any beneficial effect on the health of the people of Los Angeles.

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[13] See *"The Adequacy of Technology for Pollution Abatement,"* a report of the Research Management Advisory Panel (Subcommittee on Science Research and Development) to the Committee on Science and Astronautics, U.S. House of Representatives, 89th Cong. 2d Sess. (1966).

We are fully conscious that we are here dealing with an issue of public health which does not lend itself to absolute proof and should not be thought of exclusively in economic terms. Obviously, a showing that additional natural gas for boiler use would reduce air pollution in any significant manner would merit the most serious attention, for this Commission, like the general public, is increasingly concerned about the environment in which we live. Not only has there been no such showing, but under the broad public convenience and necessity requirement of the Natural Gas Act, this factor, as important as it is, cannot be considered in isolation. It would, of course, greatly simplify the Commission's consideration of this sharply contested and many-faceted proceeding, if we were to approve only those proposals which would insure adequate gas for boiler fuel in any community with an air pollution problem. As tempting as this approach may be, we conceive our responsibilities to be broader and to require a more analytical review of all relevant factors including alternate means of reducing air pollution. In this case, the record does not establish that certificating one rather than another of the proposals now before us will have any appreciable effect upon human health.

The proposal which we are certificating here is adequate to maintain the existing level of natural gas service in the Los Angeles area at least through 1968. Unlike the situation which would exist if we certificated Gulf Pacific, the California Commission will have continuing control over the availability of natural gas for use in Edison's and LADWP's plants. This is important because of the progress which is being made in reducing pollutants emitted from power plants. For example, as set forth in our National Power Survey, it is possible that a large part of the SO_2 content of the flue gases could be removed and converted to sulphuric acid by a catalytic converter.

The record shows that Edison has been conducting tests at El Segundo station of a device called a "bag house," which reduces the SO_3 content of the flue gases and removes almost all of the particulate matter. In addition, improvements can be made in allocating fuels among power plants to minimize air pollution at plants which are poorly located or poorly equipped with respect to protective equipment; allocating power load among plants so that smaller loads are carried by the older, less efficient plants; and shifting of loads to less pollution-producing fuel at power plants where the dispersive capacity of the atmosphere is less.[14] If these prove successful, the amount of gas received by power plants may be less important in the future. Furthermore, the future expansion of steam-electric generation in the Los Angeles area will be limited to an extent not now clearly foreseen by the greater use of nuclear generation, by coal-fired steam generation outside of California and by the establishment of the power intertie between the electric systems in California and the facilities of the Bonneville Power Administration to the North. Should the area need additional supplies of gas in the future they can and will be considered in future proceedings. We are confident there will be a continuing sufficient supply of gas available to serve the needs of the California market.

While we cannot conclude on the present record that additional amounts of natural gas should be certificated because of the effects of such certification upon the air pollution situation, our decision leaves this Commission and the California Commission in a position to take appropriate action should it be required by future circumstances.

The dissent suggests that our decision here will increase the health hazard in Southern California, but at the same time contends that, in view of the cost considerations, it is likely that even more units will be built at existing generation sites, many of which are located in the Los Angeles Basin. To the extent that this possibility is advanced as a justification for certificating Gulf Pacific it is clear that it could result in perpetuating or even increasing the overall level of combustion in Los Angeles. However, as indicated below, one of the principal reasons for not certificating Gulf Pacific is that the trends in nuclear energy, the development of remote coal-fired steam electric plants, and the build up in EHV interregional interties will minimize the need for additional generation in Los Angeles county. In fact, it is entirely possible that with the availability of these other sources of generation, the present gas burning plants in Los Angeles would be converted to peaking service, a development which would be impeded by Gulf Pacific's fixed fuel supply proposal.

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[14] See *Waste Management and Control*, a Report to the Federal Council for Science and Technology by the Committee on Air Pollution of the National Academy of Sciences and the National Research Council (1966), pp. 165–166.

THE SOUTHERN CALIFORNIA MARKET

The need for additional gas in the Southern California area is an essential element in this case. However, the exact size of the Southern California interruptible gas market in the next few years is subject to the rapid changes taking place in the generation of electric power, as discussed later in this opinion, so that it is extremely difficult to make reliable estimates with respect to this controversial matter. Furthermore, although the amount of gas to be delivered by the various proposals before us is known, this volume of gas will be supplemented from California sources, a supply which is also subject to speculation and to errors in estimates. Nevertheless, it is clear that at present the overall market for gas is growing and that additional supplies of gas are necessary to maintain adequate service. In relating the proposed projects to the predicted market it is necessary to consider both peak day demands and annual requirements in Southern California. It is also necessary to determine whether the level of service proposed is economical.

Peak Day Market

It is essential, of course, that the pipeline project certificated here be adequate to serve the peak firm requirements of the Southern California market. Pacific Lighting shows its peak day firm requirements for the heating season 1969–1970 as 4,176 M^2cf, including 56 M^2cf representing interruptible loads, which, as an operational matter are not readily curtailable. The record shows that these peak-day figures should be adjusted to reflect a reduction in the peak-day requirements of the San Diego Gas & Electric Co. by 50 M^2cf and a partly offsetting increase in demand by the City of Long Beach from 78 M^2cf to 84.5 M^2cf, so that the peak day figure becomes 4,132.5 M^2cf. To supply this peak day in 1970 TSP would have available from El Paso 1,143 M^2cf as previously certificated and 253 M^2cf additional, and from Transwestern 345 M^2cf as presently certificated and 295 M^2cf additional, or a total of 2,036 M^2cf.

Pacific Lighting estimates storage withdrawals of 955 M^2cfd assuming TSP supplies available. Gulf Pacific, based on a report made by Pacific Lighting to the California Commission claims that storage withdrawals could amount to 1,112 M^2cfd. This calculation is supported by the record and will be accepted for purposes of comparison.

Pacific Lighting shows a peak day supply from California sources of 1,033 M^2cf. Gulf Pacific would raise this amount to 1,259 M^2cf on the basis of increased takes from certain fields and greater supplies available from gas injection projects. We do not believe selective upward adjustments of the California supplies should be made, because they do not take into account offsetting decreases. Furthermore, the increase from gas injection projects is entirely speculative in the sense that it depends on whether the producers see fit to discontinue gas injections in their quest for oil and make such gas available to the utilities in California. There is no convincing showing that such a change in operations is economically warranted. Taking the lower Pacific Lighting figure, the TSP would exceed peak day requirements of 4,132.5 in 1970:

	M^2cf
Out-of-state supplies under TSP	2,036
Storage withdrawals	1,112
California sources	1,033
Total	4,181

With Gulf Pacific, however, no additional gas is made available for firm peaks. Present supplies for peak day service from El Paso (1,143 M^2cfd) and Transwestern (345 M^2cf on the peak day) would amount to only 1,488 M^2cf, storage withdrawals would be 1,112 M^2cf, and 1,033 would be available from the California producers, or 3,633 M^2cf in all, compared with the peak day demand of 4,132.5. There would be a shortage even with the addition of the full amount proposed by Transwestern (295 M^2cf), and, even assuming the maximum Gulf Pacific estimated of 1,259 M^2cf peak-day supply from the California producers, the peak day figure would barely be satisfied. Gulf Pacific cites a number of sources of peaking gas such as back flow from injection wells used in pressure maintenance projects, and emergency deliveries from PG&E, but the record indicates that the availability of these sources is speculative. In short, Gulf Pacific alone, or even with Transwestern, could not be relied upon to meet peak requirements without a condition such as that proposed by the California Commission, which would completely change the nature of the Gulf Pacific proposal.

Annual Requirements

Pacific Lighting and Gulf Pacific have each made market presentations, and the staff has reached its own conclusions on the basis of the record. Using the years 1968–1970, very likely the first three years of Gulf Pacific's operation, the forecasts of the total annual fossil fuel market available to gas afforded by Pacific Lighting's customers including San Diego Gas & Electric Company and Long Beach are as follows:[15]

[M^3cf at 14.73 psia]

	Pacific Lighting			Gulf Pacific			Staff
	1968	1969	1970	1968	1969	1970	1970
Firm	459	475	494	449	463	477	493
Interruptible:							
Other	195	198	201	234	242	250	201
Steam electric	421	438	472	446	472	508	508
Total interruptible	616	636	673	680	714	758	709
Gross market	1,075	1,111	1,167	1,129	1,177	1,235	1,202
Less voluntary use of alternative fuels outside the Los Angeles area	36	36	36	60	63	65	36
Total	1,039	1,075	1,131	1,069	1,114	1,170	1,166

[15] It must be assumed that to the extent that gas is not available to serve the entire market, service to the interruptible customers will be curtailed and that the needs of the customers will be met by alternative supplies of fuel oil. The allowance for voluntary use of alternative fuels reflects those customers who choose to burn oil even though gas is available. They would all be located outside the Los Angeles area, because of Rules 62 and 62.1 of the Air Pollution Control Board.

El Paso is already certificated to deliver 417 M^3cf annually and Transwestern 110 M^3cf annually. Under TSP with full deliveries commencing November 1, 1967, El Paso would deliver an additional 92 M^3cf a year and Transwestern would deliver 340 M^2cfd or 124 M^3cf a year. These increments are designed to maintain approximately the past levels of service to the interruptible market. El Paso in its expanded program proposes an increase of 212 M^3cf a year instead of 92 M^3cf.

Gulf Pacific on the other hand would supply 253 M^3cf, 277 M^3cf and 292 M^3cf in the years 1968–1970 assuming that these are the first three years of operation. Transwestern would supply 86 M^3cf per year in addition to the Gulf Pacific proposal according to the proposal of the California Commission.

To these available supplies must be added an allowance for gas received from California sources. Pacific Lighting provided extensive evidence on this question. As Pacific Lighting shows, most of the gas from California production is oil-well gas and is subject to the contingencies of oil production. Pacific Lighting's witness studied individual fields, and, making his estimates for the years 1966 through 1970, he included future volumes available under existing contracts and under those which are currently the subject of negotiations with producers. Total supply from all other sources considered to be available in 1965 was trended to obtain the estimated volumes for subsequent years. This trend is designed to reflect both normal decline in production and the addition of new sources of gas. In addition the witness included for 1968 and later years an estimate of supplies to be obtained from currently operative gas injection projects. On this basis the witness estimated the supply from California sources to be 228 M^3cf in 1968 and 221 M^3cf in 1970.

The California producers claim that very large additional amounts of gas are available both on an annual basis and on the peak basis. As already discussed we believe that such increases are of doubtful validity because of their selectivity and because the gas comes in large part from gas injection projects, which depend upon the economics of the oil production operations of the producers. Therefore, we see no sufficient basis for the adjustments contemplated by the California producers, although we recognize that some deviation from Pacific Lighting's estimates is entirely possible.

Irrespective of which of the three market estimates above are accepted, either the gas supply from TSP, from El Paso's enlarged proposal or from Gulf Pacific alone could be absorbed in the market by 1970 or at least by 1971. There is substantial doubt, however, whether the market could absorb the Transwestern proposal in addition to the Gulf Pacific proposal as suggested by the California Commission, particularly when account is taken of the development of nuclear and coal-fired electric generation outside of California. In any case, service by Gulf Pacific plus Transwestern, as the dissenting opinion makes clear, would represent approximately 100 percent saturation of the annual requirements of the market including the requirements of the interruptible customers. This is not the most economical level of service, as we shall show.

Gulf Pacific alone would not provide a level of service in the first few years that is out of line with past levels of service. However, as will be developed further, the market available to gas in Southern California is subject to varying factors such as the utilization of coal-fired steam generation outside California and the increased use of nuclear power. We also know that the technology with respect to treating power plant emissions in order to reduce pollutants is in a state of change. Gulf Pacific with its fixed supply and fixed customers under a 20-year contract is peculiarly ill-adapted to meet this situation. It would be purely speculative to try to estimate what level of service should be maintained in the distant future. The long-range forecasts made in the National Power Survey were concerned only with planning and not with actually committing any market to a fixed program for a 20-year period. Even in the case of the National Power Survey, however, we are updating it every three to five years to reflect changes in market, technology and competitive energy sources.

It is probable that portions of the El Paso-Transwestern gas would be used in the power plants. However, this gas supply is subject to control by the California authorities so that its allocation can be adapted to serve the market needs as they develop in future years. In short, the El Paso-Transwestern proposal is flexible enough to accommodate future developments in energy needs of this rapidly changing market.

TSP according to the testimony is designed to continue past levels of service leaving part of the interruptible load to be served by alternate fuels. The last TSP increment takes effect November 1, 1967, and TSP continues such service at least through 1968. El Paso's enlarged program, which represents 325 M^2cfd or 129 M^3cf per year more than TSP, would saturate or exceed the market in 1968 and would more than likely represent service at a higher and less economical level in 1970.

We may note also that in 1968 TSP would not only provide sufficient gas for the system-wide firm customers but would appear to be sufficient to supply all of the interruptible requirements in Los Angeles County where Rules 62 and 62.1 are in effect. The record indicates that 67 percent of the Southern California industrial fuel requirements would be in Los Angeles County, so that even taking Gulf Pacific's higher market estimates, there would be substantial volumes of gas left over to supply interruptible loads outside the County.

Level of Service

The record shows that service of the whole interruptible market as proposed by either the California Commission or the dissent is not the most economical level of service from the standpoint of cost to the firm customers. This is indicated by Pacific Lighting's computer study introduced to show the impact of Gulf Pacific on its costs. This study makes some factual assumptions which do not appear realistic and accordingly, its numerical results can not be taken at face value. Yet it is more than sufficient to demonstrate that, whatever the actual levels of service under differing proposals may be, anything approaching full gas service to the interruptible market is made at a sacrifice by the firm customers. The study shows revenue required at 16 levels of service over a period of future years. Its top level of service, the 16th level, postulates 100 percent service to the interruptible customers in an average temperature year, apparently excluding about 36 M^3cf of gas representing voluntary use of fuel oil outside the Los Angeles area. Between 1967 and 1970 the study shows the most economical level of service as the 11th level or approximately 86 or 87 percent of the interruptible requirements.

The staff study generally confirms this result. The staff studied the market on the basis of "full requirements", *i.e.*, the entire market would be served on every day, and on the basis of "winter curtailment", *i.e.*, service would be fully curtailed to interruptible customers during the coldest period. While some aspects of the staff study are also subject to modification, it indicates that the cost of gas at the load center is less under winter curtailment conditions than under full requirements whether the additional gas comes from Gulf Pacific or El Paso.

One clear reason that full service for the entire gas market is more expensive than service at some lower level is that at the top level there is little flexibility in meeting daily and seasonal load requirements and a great deal more storage capacity will be required. Pacific Lighting has 27 M^3cf of storage capacity available for seasonal swings. While in 1970, storage requirements at the 11th level of service, which roughly coincides with the existing levels of service, are estimated to be only 24 M^3cf, at the 16th level they are estimated to be 68 M^3cf. This, as Pacific Lighting shows, can be obtained only at the cost of additional storage in combination with excess pipeline capacity. TSP will meet all the firm requirements of the Southern California market through 1970 and will provide substantial volumes of gas to the interruptible customers resulting in a much more economic level of service than service under any of the other proposals which, as the dissent makes clear, would be at a higher level of service.

Long Term Market Factors

We believe the dissent misconceives the majority's position when it suggests we have rejected our promise to consider the long-term needs of the Southern California market. On the contrary, our analysis of the evidence of record in the light of our knowledge of current and prospective developments of the fuel situation in the electric industry generally and for the Southern California market in particular reinforces our selection of the more flexible tailored supply program. It is precisely an objective review of the long-term market which leads us to this conclusion.

Coal, for example, has historically been an insignificant factor in the energy economy of Southern California due primarily to the high cost of transportation, and more recently, in Los Angeles County, to the APCD rules which prohibit the burning of high-sulphur content fuels. There is evidence, however, which shows that coal will play an increasingly significant role in the future. The record shows extensive untapped coal reserves in Arizona, New Mexico and Utah capable of supplying steam electric plants which will produce large quantities of electric energy for Southern California. The U.S. Geological Survey estimates recoverable reserves in these three states alone to be 47 billion tons, substantial portions of which can be immediately developed. In addition, there are another 100,000,000 tons of recoverable reserves in Colorado and Wyoming which are potentially available to the Southern California market. For the most part this coal is low in sulphur content and of good quality for boiler use. There is evidence in the record that this coal could be delivered to strategically placed electric power generating plants at costs which even now are comparable to existing power plant costs throughout the country. The coal industry has in recent years demonstrated an aggressive attitude toward securing a larger share of the primary energy market. With the modern tools and mining technology, there is reason to expect even greater cost competitiveness in the future. Coal is a decreasing cost industry and in the last 15 years has been able to reduce its average mine-mouth prices even in the face of increased labor and supply costs.

The major deterrent to the greater use of coal in California in the past has been the cost of transportation. It is understandable, therefore, that natural gas which is economically transportable has secured a lion's share of the fossil-fuel market. Recent advances in extra-high-voltage (EHV) transmission technology, however, have opened new opportunities for coal to supply the California electric power market by sending "coal by wire", that is, the development of mine-mouth electric generating power plants. After a slow beginning EHV technology is now playing a major role in the nation's transmission patterns. When this proceeding commenced in 1963 there were no transmission lines in commercial operations above 345 kilovolts. Today the trend is toward higher voltages and there are now more than 706 miles of transmission line operating at 500 kv and above and 59,000 more miles scheduled for operation by 1970. In addition, there has been a recent announcement of plans for a 765-kilovolt transmission line which will traverse 1,000 miles in five states. Direct current transmission is also playing a significant role in electric power transmission. Construction is imminent on one of the two 750-kilovolt direct current transmission lines which together with two 500-kv alternating current lines, parts of which are now in service at lower voltages, will make up the West Coast Intertie. One 835-mile line is scheduled to be energized in 1969 and the second in 1971.[16]

The carrying capacity of transmission lines varies roughly with the square of the voltage, while construction costs are more or less directly proportional to voltage. Thus there are significant cost economies in this trend toward higher voltage transmission lines, and there is every reason to believe that this will affect the patterns of electric power generation in Southern California.

Coal-fired steam-electric generating plants to serve Los Angeles are not a distant possibility but a present reality. Southern California Edison, along with Los Angeles Department of Water and Power are members of the Western Energy Supply and Transmission Associates (WEST), a power planning and research association covering nine western states.[17] Since the commencement of this proceeding Edison in conjunction with other members in WEST is participating in the construction of two additional units at the coal-fired Four Corners Plant near the San Juan River in New Mexico. Edison reported that each of the two units is rated at 750 megawatts, with the first unit scheduled for operation in 1969 and the second by 1970. Under its agreement Edison is entitled to 48 percent of the output of these units. As revealed in this record, Southern California Edison also announced plans for the construction of the new Mohave plant on the Colorado River in Nevada. This plant, originally scheduled for operation in 1971, will initially be equipped with two 750 megawatt units. In addition, Edison, along with San Diego Gas & Electric and Arizona Public Service, has recently acquired mineral leases covering some 38,690 acres near Lake Powell in South Central Utah. Definite scheduling of generating plants at this site depends upon securing water rights, some of which have already been approved. Coal and water resources are abundant, and it is reasonable to expect that it will ultimately be developed.

When this proceeding began Edison did not contemplate the introduction of coal-fired plants on its system before 1974 or 1975 at the earliest. The advancement of these dates illustrates the rapidly changing nature of electric power technology and also the increasing reliance Edison is placing on remote coal-fired units as a means to meet its expanding loads. Thus, Gulf Pacific's statement in its brief opposing exceptions that the most that could be said for the Pacific Lighting's coal-fired plant study "is that they correctly recognize that the electric utilities will explore the possibility of building several remote coal-fired plants before 1985" is so inconsistent with Edison's own actions as to reveal a totally unwarranted pessimism.

There is also evidence that LADWP, a member of WEST, has been watching closely the developments in the use of coal. Its witness testified at the hearing that the decision on whether to build two additional units at its Scattergood Station will depend, in part, on how successful it is in getting power from outside

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[16] See Hearings Senate Subcommittee on Public Works, Committee on Appropriations, June 13, 1966. Presentation of the Administrator of the Bonneville Power Administration. See also Hearings, Subcommittee of the Committee on Appropriations, House of Representatives, Public Works for 1967, Part 2, p. 498.

[17] Other members of WEST who are Pacific Lighting's customers include Burbank Public Service Dept., Glendale P.S.D., Imperial Irrigation District, Pasadena Municipal Light & Power, and San Diego Gas & Electric.

Los Angeles. Presently it has a 20 percent interest in the generation from the proposed Mohave project.

Gulf Pacific relies heavily upon the history of slow development of nuclear energy in Southern California in an effort to minimize the role it may be expected to play in the area's future energy market. We do not believe this gloomy prognostication is warranted in view of the rapid advances in nuclear technology and its accelerated use. It is significant that nuclear energy accounted for approximately one-fifth of the total electric power generating capacity ordered throughout the country in 1965 and approximately one-half of the new capacity ordered during the first four months of 1966.

When the National Power Survey was published in late 1964 there were less than one thousand megawatts of nuclear energy generating capacity in operation in the entire United States and this was mostly in high-cost developmental plants. In 1962 the Atomic Energy Commission, in a report to the President, estimated that 40 thousand megawatts of nuclear capacity would be installed in the contiguous United States by 1980. Based upon the rapid pace of progress in the intervening two years the National Power Survey added another 30 thousand megawatts to this estimate. It now appears that even this estimate was conservative. The Atomic Energy Commission now estimates that installed nuclear capacity by 1980 will approach 90 thousand megawatts and the industry itself estimates that it could well exceed 100 thousand megawatts. This means that by 1980 nuclear energy alone will represent between 15 percent and 20 percent of the nation's generating capacity. In the rapidly growing electric power market in Southern California, it may be expected that nuclear energy will acccount for possibly an even greater percentage of the installed capacity.

Gulf Pacific attempted to show at the hearing that Pacific Lighting's estimate as to the future of nuclear energy in Southern California was exaggerated. In its brief in reply to exceptions Gulf Pacific contends that the National Power Survey "predicts that all the utilities (except PG&E) located in area N, Arizona, most of New Mexico, California and Nevada * * * will install a total of 4310 megawatts of nuclear capacity between 1970 and 1980 * * * In contrast, Pacific Lighting has assumed that Edison alone will install 7130 megawatts of nuclear capacity by 1980 * * *—or 65 percent more than the total forecast for most of the three state area."

Gulf Pacific's contention that only 4,310 megawatts of nuclear capacity will be installed in area N outside PG&E's area is based upon a press release issued by PG&E in February, 1963, which states that the company expected to install a minimum of 10,300 megawatts of nuclear capacity by 1980. Contrary to Gulf Pacific's contention, this estimate is not reflected in the Survey, which projected approximately 15,500 megawatts for all of area N by 1980. In fact, as indicated on Figure 116 of the Survey more than half of this generation was projected for Southern California. Thus, we do not believe that the projection that Edison will install 7,130 megawatts of nuclear capacity by 1980 is unreasonable. In view of the rapid advances made in the development of nuclear power since the Survey wäs published in 1964 this estimate may even be conservative at this time.

Southern California Edison is not a newcomer to the field of nuclear generation, having operated an experimental nuclear generating station since 1957. Its new San Onofre nuclear plant is scheduled for operation in 1968. This plant will have an initial installed capacity of 395 megawatts. It is obvious that the company has confidence in the future of nuclear generation. Likewise, the City is now scheduling completion of its 463 megawatt Malibu Nuclear Plant for 1969 or a little later. Although there have been some delays in getting site approval for this facility, there is no reason to believe that the City's own scheduling estimate is unreasonable. We are confident that this problem can and will be solved by the people of Southern California in a manner which will make available the benefits of this low-cost energy to that growing area.

Pacific Lighting introduced a study showing that the production of electrical energy for the Southern California area by nuclear generating plants is expected to be competitive with gas-fired plants utilizing 35¢ Mcf fuel in 1969 and thereafter. The study also indicated that nuclear units should enjoy continued improvement in competition with other fuels after 1969, due to the downward trends in nuclear costs. Gulf Pacific charges that these estimates are unreasonable and that they display greater optimism than an objective review of the present state of the art justifies. Whatever merits Gulf Pacific's position may have had in 1964 when testimony on this subject was taken, it now appears that nuclear generation is meeting this economic test. In fact, the latest data indicate that nuclear energy may even be more economical than new gas-fired units. Just last month the Tennessee Valley Authority authorized its first nuclear powered generating station, a two-unit 2.2 million kilowatt plant. The first unit is scheduled for operation in 1970.[18] The agreement was for a 12-year guaranteed fuel cost of 1.25 mills per kilowatt hour.[19] For gas to match such a fuel cost, its price would have to be 14¢ per Mcf.[20] Gulf Pacific's cost is 34¢. Moreover, the plant or capacity costs of the proposed TVA nuclear plant is $116 per kilowatt, well below the cost of many gas-fired plants. The recent Oyster Creek Plant also represents remarkably lower costs than those possible under Gulf Pacific.

One additional topic requires us to comment on the impact of technological development in this case. The Pacific Northwest-Southwest Intertie, from which Southern California Edison, the Department, and other California utilities [21] will purchase electrical energy, was not included in the Gulf Pacific exhibits because its witness deemed it too speculative. In Exhibit 882, however, Edison revised its exhibit to show exchanges with Bonneville in 1971 and Canadian Treaty Power in April, 1968, among other power purchases. It has been recently reported that the Bonneville Power Administration line will probably be in service by October, 1967,[22] and it is equally probable that California Power Pool will have a strong North-South 500-kv tie by April 1967. Here, again, the pace of innovation has exceeded the estimates of the original planners.

Watching the speed and enthusiasm with which the electric utilities have encouraged new modes of generation and transmission within the past few years, we cannot believe that a 20-year fixed supply of gas is necessary or desirable. Of course, we recognize that these new generation sources will not in the near future obviate the need for the continued use of the existing gas-fired units. However, both coal and nuclear units operate most efficiently as base load plants. Nuclear generation, in particular, has the lowest unit cost when operated at a high plant factor. This would indicate that existing gas-fired plants may be more economically utilized for peaking purposes, thus reducing their annual volumetric needs for gas. The inflexibility of Gulf Pacific's long-term supply of firm gas, which would have to be paid for whether used or not, would inhibit this logical development. In addition, the emphasis on cleaner air for metropolitan areas will add increasing pressure upon large fuel users, like electric power companies, to continue to seek new forms of producing electricity and to rely less heavily on traditional means. From the standpoint of minimizing air pollution in the Los Angeles Basin, the greater use of remote coal-fired units is far more preferable than the introduction of additional natural gas which would increase combustion and generation in the heart of the congested Los Angeles metropolitan area.

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[18] See Comparison of Coal-Fired and Nuclear Power Plants for the TVA System, Office of Power, Tennessee Valley Authority, Chattanooga, Tennessee, June 1966.

[19] The contract guarantees delivery of fuel costs for the nuclear plant ranging from 12.9¢ per Mbtu in 1970 to 10.3¢ by the end of the 12-year warranty period.

[20] Assuming a very favorable efficiency of gas-fired units of 9,000 Btu's per kwh, and 1,000 Btu's per Mcf.

[21] PG&E, Los Angeles DPW, Burbank Public Service Dept., Glendale Public Service Dept., San Diego G&E, Sacramento Municipal Utility District, State of California (Wtr. & Res. Dept.)

[22] See, Hearings, Senate Subcommittee on Public Works, *supra,* and Hearings, House Subcommittee on Appropriations, *supra.*

To sum up, we have extensively considered the long-term energy needs of Southern California. The prospect of committing two electric companies to using natural gas exclusively to generate power until 1988 does not pose an attractive alternative to the inherently flexible TSP, either from an economic or air pollution standpoint. The dynamic, indeed revolutionary, developments in the generation of electricity amply support our conclusion.

Conclusions on Markets

With the gas supply available from El Paso and Transwestern under TSP Pacific Lighting will be able to meet the peak requirements of its firm market through 1970. If Gulf Pacific alone were certificated, there would be no additional gas available to meet the peak day needs, and it is extremely doubtful whether Pacific Lighting would be able to meet the peak requirements in 1970; there could easily be a shortage of peaking gas even with the additional gas proposed by Transwestern. With respect to annual requirements, the needs of the California market for gas within the next few years are great enough to accommodate either the El Paso-Transwestern TSP proposal, the Gulf Pacific proposal or the enlarged El Paso-Transwestern proposal; however, the Gulf Pacific proposal plus the Transwestern proposal would likely saturate or oversupply the market, when weight is given to the development of nuclear and out-of-state sources of electric power. In any case, service to the interruptible market at the higher levels proposed under either Gulf Pacific plus Transwestern or El Paso expanded plus Transwestern could only be achieved at a considerable extra cost as contrasted with service at the lower TSP level. The long term demand for gas for use by electric companies is extremely questionable. In view of the emergence in the West of coal and nuclear energy as new and competitive fuel sources, and the imminence of the Pacific Coast North-South Intertie, it may well be that the demand will materially decrease over the next two decades.

COMPETITION

An additional argument which Gulf Pacific makes is relevant to the discussion of the Southern California market. This is the contention that certification of Gulf Pacific will introduce competition to the benefit of Pacific Lighting and its customers. Gulf Pacific mentions the ¾ cent rate reduction offered by El Paso as one such benefit. It further contends that once it is on the scene, its mere presence will be a continuing competitive force.

We are, of course, aware of the fact that competition among pipelines to serve additional demands for gas of major growing markets like Southern California can and does play a significant role in reducing prices to consumers. We have, accordingly, not been hesitant in certificating competitive service to such major markets as Chicago, New York, Philadelphia, Detroit, and New England. In

California we authorized competition to El Paso, which had been the sole out-of-state supplier, both to Northern California via Pacific Gas Transmission and to Southern California via Transwestern. The new company to be created as a result of the divestment ordered in the El Paso divestment proceeding should eventually add another factor in this picture. The extensive intrastate production of gas in California provides still another competitive source of supply. Furthermore, the very size of the California market has meant that other pipelines and potential pipelines have not hesitated to compete for a share thereof whenever they felt it opportune to do so. The present Gulf Pacific proposal and the earlier Pemex one—together with the major role played by Colorado Interstate in the Rock Springs proposal are proof of the validity of the Supreme Court's view that competition in the interstate pipeline field primarily takes the form of competition of knowledgeable groups with access to capital and production resources for major additions of supply to the principal markets.[23]

Any competition maturing into the filing of actual competing applications will normally play at least an immediate role in bringing down the price of the other competitors. Thus, we can agree that the Gulf Pacific application may have played a role in the reduction in the price at which El Paso offered gas to the Pacific Lighting here as contracted with the Rock Springs project, though other factors including our decision in that case and the competition from Transwestern obviously were also relevant. As we made clear, however, in the recent *Oklahoma Illinois* case (*Natural Gas Pipeline Co. of America*, 34 FPC 771, Opinion No. 474, issued September 9, 1965), the fact that a newly organized project will bring new competition to an area and spur the existing parties to present better proposals does not mean that an inferior or destructive proposal should be granted.

Whatever the past effect of the Gulf Pacific proposal in spurring El Paso, Transwestern, or the Pacific Lighting companies to greater efforts, it cannot outweigh its competitive disadvantages insofar as the present proposal is concerned. If the establishment of the Gulf Pacific pipeline gave any real promise of serving as a continuing spur to beneficial competition for the sale of gas in the California market, this fact would be a significant plus factor to be weighed in the scales in making our final judgment here. The record, however, does not support any such conclusion.

The trouble with the argument presented by Gulf Pacific is the extremely limited nature and inflexibility of the competition it offers. Initially, it is competition for the electric utility market only, *i.e.*, the two largest customers in the area are offered an opportunity to increase their gas supplies and, allegedly, to cut their costs at the expense of substantially delaying reductions in costs to all other classes of customers of Pacific Lighting, El Paso and Transwestern. Nor does Gulf Pacific, once it has successfully skimmed off the cream of Pacific Lighting's market, offer any real or continuing competitive spur such as was the case with both Transwestern and Pacific Gas Transmission when they were certificated to bring new service to California. Gulf Pacific would be operated at full capacity to transport the gas Edison and Los Angeles have already purchased. According to the terms of its contract with Humble and Edison, it cannot purchase gas for resale; therefore, only a large direct purchaser like Edison willing and able to commit itself to producers for a long-term firm supply would be able to utilize Gulf Pacific's existing facilities, and then only to the extent that its commitment was great enough to justify the necessary looping expenses. All other purchasers, as was made clear in oral argument, would have to look to the construction of an entirely separate and new line—in effect an entirely new pipeline project even if it were to be constructed and operated in the name of Gulf Pacific. There has been absolutely no showing that Gulf Pacific has any reserves to serve such a market or, for that matter, that any such market exists; the testimony and argument of the California Manufacturers Association strongly suggests it does not.

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[23] See *United States* v. *El Paso Natural Gas Co.*, 376 U.S. 651, 660.

The Commission has consistently held that absent unusual circumstances there is no reason to certificate duplicate service to particular industrial customers where the local distributor indicates it is willing and able to serve.[24] As a matter of fact, the Commission applied this principle to the last proceeding in which additional quantities of gas were permanently certificated to the Southern California market.[25] In that case, El Paso proposed to expand its facilities to deliver 100,000 Mcf per day to Southern California Edison. The Commission required this sale to be made through the California distributors so that this gas would be available to all and found that the California Commission was best equipped to allocate gas in a manner which would be most beneficial to the entire area. The Commission also expressed concern over the price and supply problems which would result from permitting a pipeline to distribute a large portion of its sales capacity to a single customer for a specific type of use.

Edison and LADWP allege inadequate service from Pacific Lighting with whom they compete and would prefer Gulf Pacific as their own independent source of gas. Similarly, the California Commission contends that the El Paso-Transwestern proposals would have the effect of perpetuating the existing discord between Pacific Lighting and its electric utility customers. We can appreciate the desire of the power utilities to have a supply of gas which is free from the circumstances of having to respond to the demands of residential consumers, but we cannot agree that such a supply should be made available at the consumers' expense. Moreover, under the statutory scheme it is the responsibility of the California authorities to see that Pacific Lighting renders the kind of service to its electric power customers, which, considered along with all other needs of the market, will best meet the public interest. We believe they are fully capable of discharging this task.

The dissent would leave the impression that El Paso has not been active in seeking to supply the requirements of the Southern California market. However, the history of the proceedings before this Commission since 1959 make it abundantly clear that this is not so. An El Paso application was one of the principal proposals before us in the *Rock Springs* case. The Commission's decision in that case finding that no new pipeline would be needed in Southern California until 1968 was issued in July 1963, 30 FPC at p. 85. The present applications of Transwestern and El Paso were filed on September 30 and October 11, 1963, respectively, scarcely five months after the *Rock Springs* decision. This can hardly be considered an undue lapse of time. As the dissent itself admits, the firm requirements of Southern California have been and are continuing to be met. It does not appear, therefore, that the alleged reluctance of the present suppliers to meet the market needs is substantiated.

The dissent makes the point that one competitive advantage of Gulf Pacific is that it would provide the major electric utilities an assured long term supply, thus enabling them to lower rates for the utility customers. There is no basis for this assumption in the record. Despite specific questioning at the oral argument, Edison stated that it had not even studied the possibility of effectuating a rate decrease, much less providing any assurance that reductions would be forthcoming. In fact, certification of such a long term supply of gas could ultimately put the electric utilities in an adverse take or pay situation, thus raising their fuel costs.

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[24] *Southern Natural Gas Co.*, 25 FPC 925, 927; *American Louisiana Pipe Line Co., et al.*, Opinion No. 316, 20 FPC 575, *Panhandle Eastern Pipe Line Co., et al.*, Opinion No. 274, 13 FPC 301, *rehearing denied*, 13 FPC 1501, *affd. Panhandle Eastern Pipe Line Co.* v. *F.P.C.*, 232 F. 2d 467 (1956), cert. denied 352 U.S. 891 (1956).

[25] *El Paso Natural Gas Co.*, 22 FPC 900.

ECONOMICS OF SERVICE

Field Price

Humble and other producers have a contract with Edison and LADWP to sell their gas at 18.5 cents per Mcf (at 14.65 psia) with escalations of one cent each four years during the twenty years of the contract. Humble has also warranted to supply the quantities of gas that Edison and LADWP are entitled to purchase under the terms of the gas purchase contracts and to make any additional gas available needed to meet the obligations to the purchasers. The Katy and Pledger Fields, from which all the gas will come, are located in Texas Railroad District No. 3. The "guideline" price in District No. 3 is 17 cents, and the Commission determined in *Hawkins & Hawkins*, 34 FPC 897, Opinion No. 475, Docket No. G–18077, *et al.*, September 22, 1965, that the "in-line" price was also 17 cents (both at 14.65 psia). In the present case the staff witness Jones presented precisely the same price array as he did in *Hawkins*.

The question here is not the determination of an in-line price for a jurisdictional sale but whether certification of a pipeline dependent upon two very large nonjurisdictional sales at the prices here involved is required by present or future public convenience and necessity. We do not believe it is, since, among other reasons, the sale of this large block of gas would likely result in an increase in prices to interstate jurisdictional purchasers.

The examiner did not condition the certificate he granted to Gulf Pacific with respect to the field price; he concluded that there would be no increase in prices for gas to interstate purchasers because contracts had been entered into at lower prices than the Humble sales in District No. 3 after the Humble contract on January 14, 1963. Humble and Gulf Pacific also argue that in view of the premium features of the sales, they will not have any inflationary effect on field prices but will in fact tend to hold the price for gas in an ordinary sale down to the area price. On the other hand, the staff argues that the price is out of line, that it will encourage producers to channel gas to the nonregulated market and that any certificate issued to Gulf Pacific should be conditioned to a 17 cent field price. The New York Public Service Commission and the Pennsylvania Public Utility Commission both attack the 18.5 cent price as destroying the effectiveness of the Commission's interim pricing policy. The California Commission concludes that the danger to the public should be obviated by proper conditioning of the Humble field prices so that they will not exceed the guideline and the area price.

The instant purchase of gas by Edison and LADWP from Humble and the other producers is a direct sale not as such subject to our jurisdiction under Section 1(b) of the Natural Gas Act. Its proposed transportation by Gulf Pacific in interstate commerce is subject to our jurisdiction under Section 7 of the Act and is not to be authorized unless required by public convenience and necessity. This standard in turn requires consideration of the effect upon the public interest of the price at which the gas is sold by the producers to the electric company purchasers (*F.P.C.* v. *Transcontinental Gas Pipe Line Corp.*, 365 U.S. 1). Accordingly, any adverse effect its approval would have upon our efforts to regulate the price of gas that flows interstate cannot be ignored.

To approve a certificate for the direct sale of this enormous amount of gas at a price above the in-line ceiling and not subject to modification up or down when the just and reasonable price for the area is established would, in our opinion, seriously jeopardize our continuing control over the price at which natural gas is sold in interstate commerce for resale, as well as the amount of natural gas available for this important market.

Under the existing pattern of operation in the natural gas industry the very great bulk of the gas moving in interstate commerce is purchased by pipelines for resale directly or indirectly to residential, commercial, and industrial consumers. Other things being equal, it may be assumed that a natural gas producer will sell his gas where he can secure the highest price. The local intrastate market can usually compete advantageously with the interstate market because of the lesser transportation costs. The diversion of gas to the intrastate markets, however, is limited by the demand for gas so that the remainder of the gas must be sold in interstate markets or not at all. What is proposed here are two large direct sales to open up a new and highly selective direct sale market in California at a price which is higher than we would authorize for sales for resale in the interstate resale market. By this arrangement additional gas could be diverted from the interstate resale consumers. If Gulf Pacific's project is granted, producers in the Texas Gulf Coast area and other areas would be inevitably induced to hold their gas off the regulated interstate market with the objective of packaging it for sale at higher prices to similar direct buyers. Inevitably, such action would eventually have a substantial adverse effect upon both the price and amount of the gas available for the interstate resale market to which the millions of small gas consumers must necessarily look.

The situation here is somewhat similar to that involved in *F.P.C. v. Transcontinental Gas Pipe Line Corporation*, 365 U.S. 1, where Consolidated Edison Company contracted to buy gas from Texas producers to burn in a power plant in New York City while Transco agreed to transport the gas, mixed with its own resale gas. While this case antedated establishment of guideline ceilings, the Court upheld the Commission's denial of a certificate on the basis widespread direct sales at high prices would probably result in price increases. Here we think the result will be the same. Staff and other parties aptly quote *Transco* (365 U.S. at pp. 29–30): "Moreover, as a matter of common sense, it would seem difficult to deny that the channeling of vast quantities of a wasting reserve into unregulated transactions at a high price will result in scarcity to other consumers and a general price increase."

We do not believe it is significant that prior to our action upon the Gulf Pacific application there have been a number of new, though relatively small sales for resale in Texas Railroad District No. 3 which have continued to be made at or below the 17 cents per Mcf guideline-in-line price. We do not suggest that even if Gulf Pacific were to be certificated all or even most of the gas developed in the area would be withheld from sale for resale in the interstate market, and prior to any such certification any reliance thereon by other producers would be speculative indeed. Moreover, other producers are aware of the heavy burden of proof to support certification of any jurisdictional contract calling for more than 17 cents. But the absence of a demonstrable short-term effect of the Gulf Pacific application does not show or even indicate that its grant would not have serious long-term consequences. Thus, at the time of the *Transco* case, too, the high proposed price of the direct sale to Consolidated Edison did not result in any immediate escalation of the general price level.

In support of the 18.5 cent price level, Humble emphasizes the large amount of gas which it is offering, the gathering and other services it provides before the gas gets to the pipeline, and its warranty of a full 20-year deliverability to meet Gulf Pacific's obligations to its purchasers. This is not the first time the Commission has been confronted with the argument that a high price should be allowed because of the alleged premium features in a particular contract and that the particular sale was so unique that it would have no effect upon general pricing patterns in the field. This was the standard claim in the 1950's with the almost uniformly unfortunate results the Supreme Court referred to in *CATCO*. Even today in in-line proceedings we are repeatedly told we should certificate a sale at an out-of-line price because it is no higher than some particular high priced sale justified under "special circumstances" in the past. The history of the Natural Gas industry demonstrates that in the absence of sophisticated regulation the special situations of today establish the normal price floors for tomorrow.

In recognition of this pattern in the last four years, virtually without exception we have refused to adjust the in-line price at which we certificated new jurisdictional sales of gas in interstate commerce for resale upward to accommodate claimed bonus values. See *e.g.*, *Standard Oil Company of California*, 27 FPC 1153, 1158–1159, affirmed on this point *California Oil Co., Western Division* v. *F.P.C.*, 315 F. 2d 652 (CA10); *Texaco Seaboard, Inc.*, 29 FPC 593; *El Paso Natural Gas Co.*, 35 FPC 40, Opinion No. 484, Docket No. CP64–211, *et al.*, decided January 9, 1966. In the *California Oil* case the Tenth Circuit not only upheld the Commission's action in refusing a bonus price for alleged gathering, processing, dehydrating and compressing services as a lawful exercise of its discretion but went on to express "serious doubts as to whether any of the costs or delivery services urged by petitioner to sustain the initial price of 18.5 cents [as against an in-line price of 15.384 cents] are relevant at all in determining the 'in-line' price in a Section 7 proceeding" (315 F. 2d at p. 659). And in the *Texaco Seaboard* case, also involving a sale by Humble in Texas Railroad District No. 3, we expressly rejected (29 FPC at 598) the contention that it was entitled to a higher price for the large volume of gas it was delivering under the sale because unlike some other sales in the field the Humble gas "will be gathered and dehydrated before delivery."

This does not mean that in determining a just and reasonable price for gas in an area proceeding all sales of the same vintage will necessarily be limited to an identical maximum price. We have provided for certain quality differentials in our Permian decision, and other pricing distinctions could possibly be justified in pending or future proceedings. But here our approval is sought, without subsequent recourse either by refund or prospective rate revision for a transaction involving a large sale at a price two cents above the just and reasonable price for pipeline quality new gas fixed in Permian[26] and a cent and a half above the in-line price at which jurisdictional sales are certificated in the area. Certificating Gulf Pacific at the proposed 18.5 cent field price, and taking into account the periodic escalations, would mean that producers would receive during the term of the contract revenues of more than $220 million above what they would receive at the 17 cent in-line price. It is, of course, possible that if the sale was being certificated as a jurisdictional one, Humble would exercise its authority to escalate, subject to refund, to the 18.5 cent contract price (or even the higher rates provided for in the contract's escalation provisions) and that as a result of the proceedings in AR64-2, it would be able to continue to charge this rate. One thing is certain if we were to certificate Gulf Pacific, far from "holding-the-line", we would be encouraging other major producers to remove large blocks of gas from the interstate resale market to the inevitable detriment of the jurisdictional consumers it is our responsibility to protect. We conclude, therefore, that certification of the Gulf Pacific project under the proposed rate structure would have a substantial adverse impact on the public interest.

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[26] Opinion No. 468, issued August 5, 1965, 34 FPC 159. In *Permian*, of course, our decision was based upon evidence relating to the average national costs of producing gas-well gas.

It has been suggested that any objections we might have to Humble's field price would be overcome by appropriate utilization of the Commission's conditioning powers under Section 7(c) of the Act. It is clear, however, that the only type of condition which would afford full protection to the public against the effects referred to above would be a condition which not only would make the initial field price no higher than would be authorized under a jurisdictional sale in the area, but would maintain the Commission's authority to adjust the price down if in the future it were to be determined that the just and reasonable price for sales of gas were lower than the initial price. In other words, only by assuming that the sale is subject to the same price controls as if it were jurisdictional could the adverse impact of the sale on jurisdictional sales be avoided. The parties to the Gulf Pacific proposal have given no indication they would accept any such conditions, and there are obvious administrative problems in enforcing such action since only Gulf Pacific, which is not a party to the contract, would be subject to our jurisdiction. Despite our doubts as to the efficacy of this remedy, we shall, for purposes of this comparative consideration, assume that any grant which would be made to Gulf Pacific would be made on the condition that the producers and Edison and LADWP would revise their contracts to provide for an initial price of 17 cents, which could be escalated to the contract price[27] only subject to refund, and which would be subject to further revision at such times as the Commission fixed different just and reasonable rates which would be applicable if the sales were jurisdictional.

While such an assumption, of course, markedly improves the Gulf Pacific proposal comparatively (and is perhaps unfair to the other applicants since it assumes in turn that *Humble, et al.* would either not escalate from the 17 cent in-line price to the 18.5 cent contract price, or if it did would subsequently be ordered to refund the difference,[28] for the reasons noted it still does not lead to a conclusion that the Gulf Pacific proposal is to be preferred.

Cost Considerations

In any comparative case between two or more pipelines, each willing and able to provide the amount of natural gas required by the common market to be served, considerations of cost will inevitably play a major and sometimes decisive role. This case proves no exception.

Cost considerations are here complicated by a number of factors. Gulf Pacific seeks to serve the two electric customers in the Los Angeles area whereas El Paso and Transwestern would serve Pacific Lighting, the existing Southern California distributor, at the state line, with Edison and the City receiving additional gas along with other customers of Pacific Lighting according to such terms, and at such rates, as the California Commission might fix. Gulf Pacific's actual rates to Edison and the City are dependent upon (1) the rate of return we would allow;

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[27] But no more than 19.0 cents prior to January 1, 1968, or the decision in AR64-2 (see 31 FPC 447).

[28] We assume that it would not be an appropriate exercise of our conditioning authority to require Humble to accept a condition less favorable to it than if it were making a jurisdictional sale.

and (2) whether we assume that any grant to it would be made upon condition that the price of the gas purchased by the electric companies in the field from Humble and the other producers would be conditioned to the in-line or subsequent just and reasonable rates. At the same time evaluation of whether the El Paso and Transwestern rates to Pacific Lighting would be less than the reductions proposed in their applications will depend upon considerations of the appropriate rate of return to be allowed for those companies; whether they should be required to apply the provisions of Opinion No. 417 relating to the rate treatment of liberalized depreciation; and the effect of the Permian Basin area rate determination on their rates. We must also consider whether any short-term differentials between the two sets of applicants are offset by differences between the long range price cost prospects of the two groups.

Despite these complications we believe it can be clearly demonstrated that there is a marked short-term advantage to the El Paso-Transwestern TSP proposal, and that nothing which we can conclude is likely to occur in the foreseeable future indicates that this advantage will be overcome.

This is true whether we treat the costs, upon which rates will necessarily be based, upon an incremental or rolled-in basis. Incrementally, the cost of the additional 250,000 Mcfd expansion proposed by El Paso for the years 1968–1970 is 25.65 cents at the points of delivery to Pacific Lighting, without giving any consideration to the questions of (1) whether there is any justification for permitting (as these figures do) El Paso a rate of return of more than the 6⅛ percent fixed in Opinion No. 366,[29] (2) the application of Opinion No. 417 to El Paso,[30] and (3) the effect of the *Permian* decision. Transwestern's incremental cost for its proposed delivery of 290,000 Mcfd at a 6⅔ percent rate of return which it proposes to use is about 24.5 cents. This figures too ignores downward adjustments relating to rate of return, liberalized depreciation and effect of the *Permian Basin* decision.

The combined El Paso-Transwestern average incremental cost at the border under this proposed, but conservatively computed, cost of service would be approximately 25 cents per Mcf. The incremental cost for transporting this volume of gas from the California border to Los Angeles would be about 2.3 cents per Mcf. At the same time, the reduced border price to Pacific Lighting would be reflected in a further saving on the purchase price of California gas, which is contractually linked to border price. The end result is an incremental cost of gas *at the Los Angeles* load center of less than 27 cents per Mcf. And the record also indicates that, if needed El Paso could supply at least 900,000 Mcfd additional gas at incremental costs lower than Gulf Pacific's cost.

This is considerably cheaper than the Gulf Pacific cost, even assuming that we were to impose and Gulf Pacific (and the producers) were to accept, conditions which would substantially reduce its cost. Thus, in the fifth year of its service, utilizing the 6 percent rate of return found by the examiner to be reasonable for Gulf Pacific and 17 cent in-line price for gas[31] Gulf Pacific's costs would be 30.35 cents per Mcf at the Los Angeles load center,[32] substantially above the maximum El Paso-Transwestern figure. If instead of the fifth year of service for Gulf Pacific's price, we utilize the average price of its gas for the entire 20-year period of the sale to Edison and LADWP as suggested by Humble we get 29.38 cents per Mcf again using 6 percent rate of return and a 17 cent field price for gas.

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[29] *El Paso Natural Gas Co.*, 28 FPC 688, 701, 702.

[30] *Alabama-Tennessee Natural Gas Co.*, 31 FPC 208, 928, affirmed as *Alabama-Tennessee Natural Gas Co.* v. *F.P.C.*, 359 F. 2d 318 (CA5–1966).

[31] There is, of course, considerable doubt that this would be an adequate rate of return in view of current market conditions. Similarly we have no assurance the producers would not escalate their field prices to the contract level immediately.

[32] See Staff Brief, Appendix C, Schedule 2 of 2. 29.46 cents $+ (17.09 - 16.2) = 30.65$ cents.

The dissent suggests that incremental costs represent an invalid basis of comparison since the proposed rates do not directly reflect lower incremental costs. But it fails to recognize that the low incremental costs inherent in the El Paso and Transwestern TSP proposal permit them to offer (and the Commission to require) huge rate reductions to all their jurisdictional customers. In the case of El Paso alone, the ¾ cent reduction it proposes will exceed one hundred and sixty-five million dollars ($165,000,000) computed over a 20-year period, *i.e.*, the touchstone of Gulf Pacific's proposals. For Transwestern, the savings are even more dramatic. Its present 41.8 cent price for 110 M^{2}cf of contract demand gas will be reduced to 32.7¢ for 234 M^{2}cf or a saving of $426 million ($426,000,000) over a 20-year period. Every year the TSP project is postponed represents several additional millions of dollars consumers actually pay in rates. Unless these possible savings are taken advantage of they are lost forever, since they are not recoupable. These great savings are proof that incremental costs are indeed entitled to considerable weight in any comparative evaluation. Despite its criticisms of the majority's incremental cost approach it is interesting also to note that the dissent itself uses incremental costs as a basis for selecting between El Paso and Transwestern for providing the additional gas which it would certificate over and beyond the Gulf Pacific proposal.

The dissent suggests that the majority's consideration of rate reductions that would flow to natural gas consumers if El Paso were certificated under the TSP program is "tenuous," and casually dismisses the plea of the "small group of customers" who would receive rate reductions. The record shows that certification of El Paso means approximately $1.6 million a year to customers located in New Mexico, Texas and Arizona. By the end of 1970, the cumulative amount of the rate reductions to the east-of-California consumers would total approximately $6,817,664. Also, the dissent fails to mention that Pacific Gas and Electric, a customer of El Paso serving *Northern* California, would receive an annual rate reduction of $2.8 million per year and an aggregate amount of $11.7 million by the end of 1970.

Other savings not mentioned by the dissent that would flow from the El Paso-Transwestern rate reductions are the reductions in the price of California gas since the cost of this gas is tied to the border price. In 1968 alone, the Pacific Lighting Companies will have approximately $2.5 million in their local gas purchase costs. Edison will also benefit substantially since its contract with Richfield Oil Corporation for 500 million Mcf of natural gas calls for payment of either the price of natural gas at the border plus 4¢ or a favored-nation price.

Gulf Pacific argues that its rates would be reduced approximately 4.75 cents per Mcf during the first four years of its operation (.6 cent over the full 20 years of its contract) as a result of (1) filing a consolidated tax with other companies in the Tenneco Inc. system; and (2) flowing through to the two electric companies the net investment tax credit generated by Gulf Pacific in this period. This reduction depends upon a favorable ruling from the Internal Revenue Service, which has not been received and also factually on whether the companies in the group will have sufficient taxable income to take advantage of the investment tax credit Gulf Pacific would generate. We believe it entirely too speculative to give any credence to this hope since, even assuming a favorable tax ruling to be forthcoming, the Tenneco system has not been able to absorb substantial balances of investment tax credits from other members of the group in several past years. There is thus no reason to believe income would be available to absorb the additional investment tax credits generated by Gulf Pacific.

The cost comparison picture is essentially the same when we look at what might be called the rolled-in effect of the two alternatives. Again making the most favorable comparison to Gulf Pacific (*i.e.*, the 29.38 cent per Mcf average 20-year price, assuming a 6 percent rate of return and a 17¢ field price of gas) and ignoring potential cost saving factors to El Paso and Transwestern (rate of return, flow through of liberalized depreciation, Permian Basin reductions) we would find that the cost of gas at the Los Angeles load center, without Gulf Pacific, (*i.e.*, granting El Paso and Transwestern under the TSP proposal) would be about 34.36 cents per Mcf and 34.34 cents with Gulf Pacific. This difference of 0.02 cents per Mcf would amount to only about $200,000 per year. This computation ignores, of course, the fact that under the TSP proposal El Paso would also be making a reduction across the board of at least ¾ of a cent and that this would amount to an additional reduction of about $4,442,000 to Pacific Gas and Electric in Northern California and to El Paso's jurisdictional and nonjurisdictional customers in Arizona, New Mexico, and Western Texas.[33] Moreover, the actual comparison will almost certainly be much more favorable to El Paso and Transwestern. Thus, the effect of the Permian Basin area rate proceeding alone would be to reduce the rolled-in cost of gas at the Los Angeles load center *without Gulf Pacific* by over a cent. Considering the rolled-in costs *with Gulf Pacific* the effect of the Permian decision would be to shift the cost advantage to El Paso and Transwestern by at least ¼ cent per Mcf. Other reductions in the El Paso-Transwestern costs could stem from considerations of rate of return and the flow-through of liberalized depreciation.

The dissenting opinion suggests that while there may be a cost price advantage in granting the basic El Paso-Transwestern TSP program as contrasted with granting the Gulf Pacific program alone, this comparison is reversed if we consider large volumes—specifically the expanded El Paso proposal plus Transwestern's as compared with Gulf Pacific plus Transwestern. If the cost comparison attempted to be drawn by the dissenting opinion were a valid one it would at least raise a substantial question as to where the long-run cost advantage lay. But it is demonstrably invalid. Specifically, the dissent contends that, as of 1970, the rolled-in cost of gas with Gulf Pacific and Transwestern's proposed sales added to present supplies would be 33.46 cents per Mcf, whereas the rolled-in cost of gas at the Los Angeles load center with El Paso's expanded proposal (575 M^{3}cf additional) plus Transwestern would be 34.81 cents per Mcf. These figures, however, ignore the decreases in rates to El Paso's other customers (almost $6,000,000 annually at this increased volume), as well as any effect of El Paso or Transwestern flowing through liberalized depreciation. They are seriously deficient in at least two other respects: (1) they use a cost of Pacific Lighting transporting gas to the load center which is almost 3 cents per Mcf more than that justified by the record[34]; and (2) they ignore the fact that, with the loss of the Edison and Los Angeles balancing load, Pacific Lighting would necessarily incur greater costs due to greatly increased storage operations or takes of gas at reduced load factors. This need for increased storage is particularly aggravated if additional Transwestern gas is used.

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[33] It also fails to consider that under the Gulf Pacific proposal *none* of the Pacific Lighting's customers other than the two electric companies will get any reduction, while under TSP all of these customers, including the electric companies will share in the reduction to an extent fixed by the California Commission.

[34] The almost 6¢ figure as the cost of Pacific Lighting transporting from the border to the load center used in the dissenting opinion is presumably based on an inter-company agreement filed by Pacific Lighting with the California PUC in 1963. However, the total costs in the inter-company agreement were based on broader operations than merely the cost of delivering out-of-state gas (*e.g.* costs of moving gas from storage and from California producing fields). If the out-of-state volumes are related to the costs of transporting those volumes, the proper unit transportation cost in the year shown in the inter-company agree-

Gulf Pacific's principal contention on the cost phase of the comparison is that any short run advantage of the TSP proposal is outweighed by the fact that its maximum price is fixed over the 20-year period of its contract. The present El Paso and Transwestern prices over this period for the additional gas will vary with their costs which Gulf Pacific says are bound to increase. In the long run, therefore, it is contended, the public will gain by choice of the Gulf Pacific alternative.

El Paso and Transwestern admittedly do not have enough presently committed reserves to assure deliverability of gas over a twenty-year period and offer no guarantee of the type Humble has provided the two electric companies. Gulf Pacific contends that the two pipelines, even if they were to pay no more in the future to producers for additional gas than their present weighted price average, would inevitably have to install expensive gathering facilities to attach such new reserves. However, this argument overlooks the fact that any such additional cost can be absorbed by El Paso at the rate of approximately $40,000,000 per year, resulting from the effect of depreciation on El Paso's existing rate base. It also ignores the fact that El Paso already has extensive gathering facilities in the Permian and San Juan areas from which it secures, and undoubtedly will continue to secure, a large portion of its gas. The same is true to a slightly lesser extent of Transwestern.

It is also argued that increased costs of finding and producing gas, plus general nationwide inflation, will undoubtedly raise El Paso's and Transwestern's purchased gas costs over the next two decades. Here we are in a realm of almost pure speculation. It is, of course, possible that field costs and prices for gas will increase over the period involved. But the fact that field prices have risen markedly over the last two decades—as gas went from an unwanted by-product to a premium fuel—does not provide any more basis for assuming there will be any significant increase in the next 20 years than the present cost and price stability proves to the contrary. Moreover, even if we asume that the two electric utilities, who alone among Southern California gas consumers stand to gain from the Gulf Pacific project, will secure benefits from a firm supply at a fixed price not subject to market vagaries, the other customers of Pacific Lighting and El Paso can only suffer injury if progressive field price inflation adds to the adverse effect of deferring the reductions which would otherwise result from additional sales by El Paso and, possibly, Transwestern. The concept that cheap expandability of existing pipeline resources is something to be hoarded, rather than taken advantage of at the earliest feasible opportunity simply does not make economic sense.

Finally, it is clear that there is no basis in the record for the suggestion that it is only a matter of time before California must seek new and presumably more costly sources of gas supply and that accordingly the present opportunity to tap the East Texas fields should not be lost. Even if those fields were being opened up for the resale market in California, which they are not, it would be doubtful

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ment (1963) is 3.6¢ per Mcf. Future costs, the evidence indicates, averaging 2.9¢ per Mcf in the 1966–1975 period, will be lower than the 1963 cost because the capacity of the Pacific Lighting system can be increased at a low incremental unit cost since it is not presently operating under optimum conditions. This is verified by El Paso's showing that its cost of transporting 865 M^2cfd from the border to the load center would range from 3.01¢/Mcf in the first year to 2.90¢/Mcf in the third year.

whether it would make sense to seek new sources of supply in an area whose distance from the California consumer entails such high transportation costs. Nor is there anything in the existing supply situation in East Texas to indicate that it is likely to be either a cheaper or more profuse source of supply than the areas which already serve California, or those newer areas in the west which, like the Rocky Mountain fields, are a potential source of future supply to California should they become more productive.

GAS RESERVES AND AVAILABILITY

There is considerable controversy of a very technical nature in the record about the extent of the gas reserves dedicated to the three pipelines involved here. In the case of Gulf Pacific we have already noted that Humble and other producers have contracts with Edison and LADWP to sell them gas directly from reserves in the Katy and Pledger Fields located on the Texas Gulf Coast in Railroad District No. 3 at 18.5 cents per Mcf. Humble has also warranted to supply the quantities of gas that Edison and LADWP are entitled to purchase under the terms of the gas purchase contracts and to make additional gas available that is needed to meet the obligations to the purchasers. Gulf Pacific and others contend that El Paso's and Transwestern's reserves are inadequate to support their proposals and, in addition, that Transwestern has failed to meet the deliverability requirements specified in the Commission's rules.

Gulf Pacific's Reserves

Gulf Pacific presented evidence showing that available reserves in the Katy and Pledger Fields as of July 1, 1965, amount to 6.01 trillion cubic feet (tcf) at 14.73 psia, providing a deliverability of 16 years at a 95 percent load factor without taking into account Humble's warranty. While El Paso's witness would reduce Gulf Pacific's claimed reserves substantially, the staff and the examiner found its estimates reasonable. Because we find other aspects of the Gulf Pacific project inferior to the proposals of El Paso and Transwestern, it will not be necessary to determine the adequacy of Gulf Pacific's reserves, but for the purposes of this opinion we regard Gulf Pacific's estimates as reasonable and the reserves adequate for what it proposes.

El Paso's Reserves

The gas reserves dedicated to the El Paso and Transwestern proposals must be examined because the viability of these projects depends on sufficient reserves and deliverability for a long enough period in the future to insure that their California customers will receive continued and reliable service. El Paso contends that its gas reserves will be sufficient either for its proposed 250 M^2cfd increase for TSP or for its alternate 575 M^2cfd proposal. It estimates that its total recoverable gas reserves as of January 1, 1963 are 30.9 tcf at 14.73 psia. These consist of 17.5 tcf in the Permian Basin area, 12.8 tcf in the San Juan Basin, and 0.6 tcf from its Northwest Division which has been retained by El Paso to meet requirements during 1963 and 1964, 5.3 tcf of gas reserves belonging to the Northwest Division were excluded because of the imminent divesture. For the 250 M^2cfd proposal El Paso estimates a deliverability life of 15 years, and for the 575 M^2cfd proposal a deliverability life of 13 years, in each case computed from January 1, 1963.

Humble, Gulf Pacific and the staff, in varying degrees, would reduce El Paso's estimates, but the staff found that El Paso's estimates were adequate to support its application. The examiner, however, concludes that El Paso cannot meet its full estimated requirement under the 250 M^2cfd proposal after 1972 nor the 575 M^2cfd proposal after 1970.

A further discussion of our findings on El Paso's gas reserves is set out in Appendix A. Briefly, we believe El Paso's reserves should be reduced by approximately 0.53 tcf in the Gomez Field, by 0.30 tcf in the Worsham Field and by 0.43 tcf in the Brown-Bassett Field, for a total reduction of 1.26 tcf. The staff would reduce El Paso's reserves by about 1.75 tcf,[35] and El Paso's deliverability life of 15 years for the smaller expansion by only about a third of a year. However, the staff's study did not reflect the reduced availability of the west Texas casinghead gas nor partly offsetting increased estimates of El Paso's reserves in Basin Dakota and Gomez amounting to 0.92 tcf. Based upon our determinations of El Paso's reserves and making some allowance for the decreased availability in west Texas, El Paso's deliverability life would amount to at least 11 or 12 years even for the major expansion. At certain stages of the divesture proceedings the Department of Justice advocated the transfer of additional reserves, amounting to 0.6 tcf or 1.25 tcf, to the new company, which will take over El Paso's Northwest Division. These additional amounts would be less than 5 percent of El Paso's reserves and would not change the result substantially. There is a good possibility the gas would be sold to El Paso in any event. We are convinced that El Paso's deliverability life is adequate to support either its original application or its expanded application.

Even if we followed the Gulf Pacific and Humble reductions completely and reduced El Paso's deliverability to 10 and 8 years as of January 1, 1963, we would still find El Paso's gas supplies adequate for these proceedings. El Paso has displayed an aggressive gas acquisition policy in the prolific Permian Basin area. There is no reason to believe it will not continue to do so in the future. Therefore the deliverability requirement should be flexible as provided in § 2.61(a) of our Rules, discussed below.

Transwestern's Reserves

Transwestern's claimed reserves are in the Permian Basin and in the Panhandle-Anadarko Basin of Kansas, Oklahoma, New Mexico and Texas. It claims 5.5 tcf as of July 1, 1963, of which 0.87 tcf is gas that the Gulf Oil Corporation, owner of more than 30 percent of Transwestern's common stock, has warranted to make available. Transwestern's attempt to put in evidence 0.53 tcf of additional reserves covered by six additional contracts with Gulf Oil made in October 1964 was rejected by the examiner as untimely. However, Transwestern was permitted to introduce the six contracts. Both Gulf Pacific and Humble sharply criticized the Transwestern showing, and the examiner agreed, finding that it is apparent from this record that Transwestern's gas supply is not sufficient to justify issuance of a certificate.

Gulf Pacific directed its attack at Transwestern's claimed reserves in six Permian Basin Fields. Here Transwestern had used the volumetric method of measuring its reserves. Gulf Pacific employed the pressure decline method and concluded that the reserves should be reduced by 0.448 tcf, about half of which is in the Worsham (Delaware) Field. The pressure decline method, while a useful tool, requires a sufficiently reliable history of production in order to establish its accuracy as applied to particular fields. Under this method pressure should decline as gas is produced, but, in many instances here the pressure actually increased as gas was produced, showing that pressures were erratic. Furthermore in preparing its estimates Gulf Pacific used the maximum shut-in pressures reported to the Texas Railroad Commission, but the record shows that water in the well bores precludes the use of shut-in pressures and that bottom-hole pressures should have been used instead.

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[35] Adjusting the Brown-Bassett reduction for CO_2 content.

We agree with the staff that Transwestern's estimates of its reserves are founded on sufficient evidence and should be accepted. The question remains, however, whether the deliverability life it shows is sufficient. Transwestern's evidence shows that, excluding the Gulf Oil warranty gas but taking into account the proposed 100,000 Mcfd sale to Cities Service Gas Company approved last August,[36] it has an ability to meet its requirements from July 1, 1963, until 1970 before any significant deficiency occurs and until 1972 before the deficiency becomes serious. As with El Paso, we do not agree with Gulf Pacific's argument that the deliverability life should be decreased for the time that has elapsed since July 1, 1963, the date of its reserve study. Section 2.61(a) of our Rules provides—

> (a) When a pipeline company has demonstrated through the annual reports filed pursuant to § 260.7 of this chapter that it has an active procurement organization and its pipeline system extends into production areas in which exploration is continuing, the twelve-year deliverability life heretofore found to be a primary requisite by the Commission will not necessarily be applied and the Commission's deliverability requirement will be flexible.*
>
> *"Deliverability" as used herein represents the number of future years during which a pipeline company can meet its annual requirements for its presently certificated delivery capacity from presently committed sources of supply. The availability of gas from these sources of supply shall be governed by the physical capabilities of these sources to deliver gas, by the terms of existing gas-purchase contracts and limitations imposed by state or federal regulatory agencies.

Transwestern has met these qualifications. It has filed such annual reports. It has an active gas acquisition policy as demonstrated by the six additional contracts made a part of this record. Furthermore, its pipeline system extends into prolific supply areas, particularly in the Permian Basin. In fact, its present reserve status results from its need to refrain from attaching further supplies of gas because of a serious take-or-pay problem.

Gulf Pacific further points to Section 2.61(c) of our Rules which provides:

> (c) The deliverability life showing of a new pipeline company seeking to initiate service, or of an existing pipeline company seeking to serve major new markets or to serve major existing markets from new sources of supply over new routes will be dependent upon the future availability of gas in its proposed new supply areas, but in no event shall the minimum deliverability life of the incremental supply needed to serve the new or expanded market be less than twelve years.

Although Transwestern has made no such 12-year showing, it is clear that its proposal does not fall within the purview of this rule. It does not intend to serve from new sources of supply over new routes, so that Section 2.61(c) does not apply. Since in accordance with Section 2.61(a) above we have modified the 12-year reserve requirement and since Transwestern has shown ability to attach additional reserves, we shall accept Transwestern's reserve and deliverability showing, and conclude that its showing is sufficient to meet the requirements of its proposal here.

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[36] *Transwestern Pipeline Co.,* 34 FPC 659, Opinion No. 472, Docket No. G-20464, August 31, 1965.

SUMMARY AND CONCLUSIONS

We have examined the proposals before us in great detail in order to determine which best meets the needs of the Southern California market and is most consistent with the public interest. This examination has led us to conclude that the Tailored Supply Program most adequately meets these requirements. None of the other proposals offer the same benefits or are as adaptable to the needs of the market. Accordingly, we are certificating El Paso and Transwestern to supply the necessary increments of gas.

The Commission is fully aware that one of the important factors in determining the extent and scope of the market for natural gas in any community is the contribution which additional gas might be able to make to alleviating air pollution. However, our meticulous and comprehensive examination of all facets of the air pollution issue leads us to conclude that, on the basis of the particular situation in the Los Angeles area, the evidence in the record, and the current state of the technology and scientific understanding of air pollutants and their effect on human beings, none of the proposals before us would have any appreciable effect upon the health of the people of Los Angeles. Thus, we are not confronted with a choice between a proposal which would make a contribution to the health and wellbeing of the people of Los Angeles on the one hand, and, on the other, a proposal that was superior on the basis of other factors.

Specifically, there has been no showing that photochemical smog, which represents probably the single most irritating aspect of the area's air pollution problem would be diminished by a complete switch to gas. As indicated earlier in this opinion automobiles and other vehicles account for more than 80 percent of the total contaminants emitted into the Los Angeles atmosphere. This includes approximately 73 percent of the hydrocarbons and 50 percent of the oxides of nitrogen which react under sunlight to create smog. Power plants account for only 3.5 percent of the total emissions during the winter months, when some fuel oil is being burned, and even less in the summer. The full utilization of natural gas in place of fuel oil would have little effect on hydrocarbon emissions and there is no basis for concluding that the modest reduction in the emission of oxides of nitrogen which would result would have any beneficial effect on the smog situation.

While the complete elimination of fuel oil would reduce the emissions of sulphur compounds, the Los Angeles area, which has only rarely and to a very limited degree exceeded a measured sulphur dioxide concentration of .1 part per million, presently ranks low compared to other metropolitan areas in the amount of such emissions. No showing has been made that such low concentrations are harmful. On the other hand, there is evidence in the record which indicates that steps can and are being taken to reduce even these sulphur compounds emissions by the electric companies when they burn fuel oil.

Under such circumstances, we do not believe that 100 percent gas service to the interruptible market is warranted. With respect to the Gulf Pacific proposal, there is an added difficulty since its inherent inflexibility would commit the local-utilities to a large, long-term supply of natural gas at the very time when the development of nuclear-power generation, remotely located coal-fired steam electric plants and the buildup of extra-high-voltage interregional interties promise to minimize the need for additional electric generation in Los Angeles and to make it possible to limit the use of a portion of the existing facilities to peaking purposes. TSP provides a flexible supply which can be accommodated to this evolving, but still uncertain, market.

One of the most compelling reasons for certificating TSP is that it leaves this Commission and the California Commission in a position to take whatever action may be required by future circumstances.

The TSP proposal would supply gas in amounts roughly equivalent to existing levels of service which would be adequate to meet the market requirements on both a peak day and annual basis. It is clear that Gulf Pacific also could be absorbed on an annual basis, but there is considerable doubt whether Gulf Pacific alone or even with Transwestern would be sufficient to meet the peak-day requirements. On an annual basis the market could also probably absorb the El Paso expanded proposal plus Transwestern but there is considerable doubt whether it would be able to absorb Gulf Pacific plus Transwestern. In any event it is clear that either of these two larger proposals would supply gas to the interruptible market at a higher, less economic level of service than TSP.

In view of the 17-cent in-line price applicable to all jurisdictional sales of gas in Texas Railroad District No. 3, and the pending area rate case involving all jurisdictional sales in that region, any proposal which involves the sale of gas from Humble and the other producers to Edison and LADWP at a fixed initial rate of 18.5 cents per Mcf with escalations of one cent each four years during the 20-year life of the contract cannot be justified. Such a sale would encourage other major producers to remove large blocks of gas from the interstate market, to the inevitable detriment of the jurisdictional consumers it is our responsibility to protect. Arguably, if we were to certificate Gulf Pacific we could condition a grant to a field price which would be no higher than would be authorized for a jurisdictional sale, subject to downward price adjustment if in the future it were determined that the just and reasonable price for sales of gas were lower than the initial price. However, the parties to the Gulf Pacific proposal have given no indication in the record that they would accept any such condition and, in any event, such a condition would create obvious administrative problems since we could enforce it against only Gulf Pacific, which is not a party to the producer contracts.

Strongly supporting grant of the TSP proposal is a consideration of costs as they would be reflected in rates. The incremental costs of gas under TSP at the Los Angeles load center is 27 cents per Mcf, and this figure does not include any further savings made possible by maintaining El Paso and Transwestern at the present rate of return, by flowing through the savings from the use of liberalized depreciation, and by reflecting the reductions in gas costs as a result of our *Permian* decision. This 27 cent incremental cost would permit rate reductions by El Paso and Transwestern exceeding $29,000,000 a year—and as indicated this figure does not reflect the full reduction in their rates which can be expected. Gulf Pacific on the other hand even upon the most favorable assumption would have an additional incremental cost of over 2 cents per Mcf. The only savings it would make possible would redound to the two electric utilities with the other customers of Pacific Lighting and the Northern California and east-of-California customers of El Paso receiving no benefit. Moreover, on a rolled-in basis (again making the most favorable assumptions with respect to the Gulf Pacific proposal) the slight advantage of 0.02 cents per Mcf or about $200,000 per year in favor of Gulf Pacific at the Los Angeles load center would be far outweighed by an annual decrease in the cost of El Paso gas to Northern California and the states east-of-California amounting to $4,442,000 per year.

We find no merit in Gulf Pacific's contention that it would introduce competition in the Southern California market to the benefit of consumers. Gulf Pacific offers alleged savings only to two large electric customers of Pacific Lighting at the expense of all Pacific Lighting's firm and other interruptible customers as well as at the expense of consumers outside of Southern California dependent upon El Paso. Since the long term fuel needs of these electric utilities are necessarily speculative, even Gulf Pacific's fixed gas supply is of extremely doubtful benefit. Because of the proposed nature of the Gulf Pacific operation, its availability to meet the future needs of area consumers purchasing their gas from distribution companies is virtually nonexistent, and there is grave doubt as to the ability of even the largest industry customers to take advantage of its facilities. This Commission has certificated competitive service to other major markets throughout the country and if Gulf Pacific gave any real promise of providing a continuing competitive service of gas for the Southern California market, its competition arguments would carry much weight. The record, however, does not support any such conclusion.

Our rejection of Gulf Pacific does not mean that under different supply and demand situations an industrial pipeline such as Gulf Pacific, performing solely interstate transportation functions for a few large consumers of natural gas, would not be consistent with the public interest. There may well be situations in which such pipelines are a useful adjunct to the normal operational pattern of interstate pipelines. But this is not one of them. For as we have shown, the operation of the proposed Gulf Pacific project cannot be disassociated from the service Pacific Lighting and the existing suppliers provide to their other customers and thus Gulf Pacific could be authorized only at great detriment to those other customers.

We have found, contrary to the examiner, that all three applicants have reserves of gas committed or available to them to meet the minimum qualifications which an applicant for a certificate of public convenience and necessity must possess before we would make any grant under the provisions of Section 7 of the Act. Comparatively, it is clear that Gulf Pacific, particularly in view of the Humble warranty, is at an advantage in this respect since it should not require any significant additional expense to maintain gas supplies for the full 20 years of the sales contracts whereas both El Paso and Transwestern within such period will have to acquire and attach new reserves. The cost of such action cannot be foretold. However, any advantages of cost certainty in this area which might otherwise accrue to the Gulf Pacific proposal are largely offset by the uncertainty of whether the two electric companies which will purchase the gas under the long-term contract with the producers will have a continuing use for all the gas for which they are committing themselves for the full 20-year term. And, in any event, the entirely speculative possibility that the present cost advantage of the TSP proposal might be decreased or even wiped out over the next two decades cannot outweigh its real and present benefits.

In summary we conclude that the appropriate supply of gas for the Southern California market is one which, while meeting peak requirements, would keep total levels of gas consumption at approximately present levels. Higher levels of gas service, such as those which would result from grant of either the expanded El Paso proposal or Gulf Pacific with Transwestern, would add to the cost of gas with no appreciable public benefit. At the lower levels, the El Paso-Transwestern TSP proposal is clearly to be preferred to Gulf Pacific because it (1) more clearly meets peak day and annual market needs; (2) is substantially cheaper on both an incremental and rolled-in basis; (3) avoids the serious problems of the high field prices upon which the Gulf Pacific proposal is predicted; and (4) provides for a necessary flexibility in the use of gas in the market over the next two decades of rapid change, particularly having in mind the nature of the electric fuel market for Southern California. These advantages clearly outweigh any minimal advantages which could conceivably result from authorizing a new pipeline of Gulf Pacific's nature to serve the market.

CONDITIONS

A number of conditions are recommended by the staff or the California Commission or both for insertion in either or both of the certificates granted to El Paso and Transwestern. Our views on this aspect of the case are as follows:

1. As indicated, both El Paso and Transwestern recognize that grant of their proposed applications will substantially decrease their unit costs, and they offered in evidence proposed rate reductions supported by cost of service computations. In both cases, however, the rate reductions which they propose are inadequate to bring the indicated rate of return down to that last allowed by the Commission. Specifically, El Paso's proposed ¾ of a cent reduction will leave it with a projected return significantly in excess of the 6⅛ percent rate of return we prescribed for the company in *El Paso Natural Gas Co.*, 28 FPC 688, 701–702. The reduction in Transwestern's 100 percent load factor CDQ rate from 41.8 cents per Mcf to 32.7 cents per Mcf likewise would result in a projected return for that company substantially in excess of the 6¼ percent rate of return which we set as the appropriate rate of return upon which its rates were to be based in the original Transwestern proceeding.[37] Neither pipeline introduced any direct evidence in this proceeding demonstrating that under present conditions they are entitled to a higher rate of return than that earlier prescribed for them. Transwestern put on a rebuttal witness who testified in support of higher rate of return. Even assuming it would ever be appropriate to permit a pipeline to justify a higher rate of return in a certificate case (but see *Texas Gas Transmission Corp.*, 22 FPC 378), it is not an appropriate matter for initiation on rebuttal.

Under these circumstances, we agree with the staff and the California Commission that certification of El Paso and Transwestern should be conditioned to require them to file rates based upon the cost of service they submitted in the proceeding adjusted to reflect a 6⅛ percent rate of return in the case of El Paso and 6¼ percent rate of return in the case of Transwestern. Both pipelines will, of course, be free if they so desire to file rate increases based upon such higher rate of return that they may believe justified.

2. The staff recommends that in any cost of service upon which Transwestern's new rates are to be based, prepayments in any amount above the $948,621 already shown as being booked should not be permitted since Transwestern in this proceeding has asserted that further gas prepayments could be avoided if certificates were issued. We agree with the staff and shall provide that the rates required to be filed by Transwestern herein be based on a cost of service reflecting no prepayments in the rate base in excess of $948,621, and shall make a similar provision with respect to El Paso.

3. Both El Paso and Transwestern take liberalized depreciation for tax purposes but the cost of service from which their proposed reduced rates were calculated utilized straight-line depreciation and "normalized" taxes. Moreover, both cost-of-service exhibits provided for a full return on the accumulated reserves which had been developed through the use of liberalized depreciation and normalized accounting therefor. The staff and the California Commission have recommended that Transwestern's new rates be calculated on the basis of flowing through the benefits of liberalized depreciation and deducting accumulated reserves from the rate base. However, no party has recommended any such

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[37] See letter–orders of August 4, 1960 and August 11, 1960 in Docket No. G–14871.

action with respect to El Paso, and both the record[38] and pleadings are silent on the question insofar as that company are concerned.

The recommendations with respect to Transwestern apply to the present case the principles utilized in the Commission's decision in Opinion No. 417 (*Alabama-Tennessee Natural Gas Company*, 31 FPC 208). The Commission's decision in that case has now been affirmed (*Alabama-Tennessee Natural Gas Co.* v. *F.P.C.*, 359 F. 2d 318 (CA5). The *Alabama-Tennessee* decision makes clear that the use of liberalized depreciation will produce tax savings with respect to any pipeline company whose gross plant is either growing or stable (*i.e.*, additions to plant equal retirements). While the Annual Reports filed by the companies indicate that both El Paso and Transwestern have growing plants, and thus there is a *prima facie* case for applying the policy of *Alabama-Tennessee* to these two pipelines (even without consideration of the effect of the expansions authorized here), we do not believe it would be appropriate for us to impose flow-through on the two pipelines in this certificate proceeding in which no previous consideration was given to the matter insofar as El Paso is concerned and only limited evidence has been introduced with respect to Transwestern. Furthermore, there is no basis on this record for determining the appropriate annual amount of the flow-through for either company were we to apply the principles of *Alabama-Tennessee*. Accordingly, we shall not adopt the suggestion of the staff and California in this respect. We are, however, by separate order directing El Paso and Transwestern to show cause why their rates should not be further reduced to flow-through the benefits of utilizing liberalized depreciation for tax purposes to their customers and to deduct the accumulated reserves in Account No. 282 from the rate base upon which their return is calculated.

4. The California Commission would require an adjustment of Transwestern's price if the heating value of its gas falls below the 1,072 Btu used by it in the hearing. We do not think such a condition is appropriate. There is no evidence to show that the heating value of its gas will decline, or that the heating value of the gas would be relevant in any future rate proceeding involving Transwestern.

5. The California Commission recommends that we require the straight-line remaining-life method of depreciation for Transwestern. This is not a rate case, and, on the record here, there is insufficient justification for ordering a change in Transwestern's method of computing depreciation.

6. The California Commission objects to Transwestern's application of all of its proposed rate reductions to the commodity component of its two-part rate schedule; it suggests that the reduction be equally applied to the commodity and demand components. No such recommendation is made by the California Commission, or any other party, with respect to El Paso. Nor is there present in the record any of the comprehensive testimony which would be required in order for us to make a reasonable evaluation of the appropriate rate designs of the two proposals, which cannot, of course, be considered in isolation from one another. See *Natural Gas Pipeline Company of America*, 28 FPC 1033.

Under these circumstances, while we believe that possible changes in both Transwestern and El Paso's rate designs may be appropriate matters for consideration in any future rate case, as well as for continued study by our staff, we do not believe that there is any basis for adopting the California Commission's suggestion here.

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[38] A witness for the California Commission did state in passing that *any* grant should be conditioned on the flowing through of liberalized depreciation, but he made no attempt to discuss the factual situation with respect to El Paso.

7. Finally, the California Commission asks us to require Transwestern (and El Paso if we were to grant this application) to flow-through any field price reductions and any producer refunds. Both applicants have indicated their willingness, if they secured the certificates applied for, to reduce their rates to reflect reductions in their purchase gas costs, and we believe the public interest requires this to be done. We shall accordingly require that both Transwestern and El Paso shall flow-through any producer rate reductions and refunds relating to the period commencing with the date rates filed in accordance with the opinion and order become effective.

The treatment of any refunds received by El Paso or Transwestern relating to periods prior to the effective date of the new rates ordered herein presents a different question. The matter of insuring the pipelines pass along such refunds to consumers in appropriate circumstances has been a matter of concern to us. Accordingly in a number of cases we have provided for the escrow of refunds by the producers pending the determination of whether the pipeline or their customer are entitled thereto. We believe that (subject to the El Paso settlement agreement in Docket No. G-4769, *et al.*) the question of the disposition of the refunds to be received by El Paso and Transwestern for a period prior to the effective date of the new rates should be similarly treated.

The Commission further finds:

(1) El Paso Natural Gas Company, a Delaware corporation having its principal place of business in El Paso, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission. *El Paso Natural Gas Company* (4 FPC 486).

(2) Transwestern Pipeline Company, a Delaware corporation having its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission. *Transwestern Pipeline Company* (22 FPC 391).

(3) Gulf Pacific Pipeline Company, a Delaware corporation having its principal place of business in Houston, Texas, upon construction and operation of the facilities proposed by it in Docket No. CP63-223, would become a "natural-gas company" within the meaning of the Natural Gas Act.

(4) The facilities hereinbefore described, as more fully described in the applications and the record in this proceeding, are to be used in the transportation and sale of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof and the transportation and sales of natural gas proposed are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(5) Each of the above-named applicants is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(6) The application of Gulf Pacific has not been shown to be required by the present or future public convenience and necessity.

(7) The construction and operation of the facilities proposed by El Paso in these proceedings and approved in this order, and the transportation and sale of 250 M^2cfd (14.9 psia) of natural gas by El Paso to Pacific Lighting are required by the public convenience and necessity as hereafter ordered and conditioned.

(8) The construction and operation of the proposed facilities and the transportation and sales of natural gas by Transwestern are required by the public convenience and necessity as hereafter ordered and conditioned.

The Commission orders:

(A) The application of Gulf Pacific in Docket No. CP63–223 is denied.

(B) A certificate of public convenience and necessity is issued to Transwestern in Docket Nos. CP63–204 and CP64–91, authorizing the construction and operation of the facilities and the transportation and sale of natural gas in the total amount of 640 M^2cfd (14.73 psia) to Pacific Lighting as described above and as more fully described in the applications in this proceeding, upon the terms and conditions of this order.

(C) A certificate of public convenience and necessity is issued to El Paso in Docket No. CP64–76 authorizing the construction and operation of the facilities as described above and as more fully described in its application in this proceeding for increasing the capacity of its present system in order to effect the sale of an additional 250 M^2cfd or a total of 1380 M^2cfd of natural gas (14.9 psia) to Pacific Lighting, upon the terms and conditions of this order.

(D) The certificates issued in paragraphs (B) and (C) and the rights granted thereunder are conditioned upon compliance by El Paso and Transwestern with all applicable Commission Regulations under the Natural Gas Act and particularly the terms and conditions set forth in paragraphs (c) and (e) of Section 157.20 of such Regulations.

(E) The certificate issued to Transwestern shall be on the following conditions:

(1) Subject to completion of the necessary facilities Transwestern's sales to Pacific Lighting shall be at a contract demand quantity of 535 M^2cfd (14.73 psia) and a maximum demand quantity of 640 M^2cfd; after January 1, 1967, both contract demand and maximum demand shall be 640 M^2cfd.

(2) Transwestern shall file tariff sheets acceptable to the Commission reflecting as follows:

(i) Upon attaining the capacity to deliver a contract quantity of gas in the amount of 535 M^2cfd, a CDQ–1 rate at a rate level which reflects a reduction of the 36.0 cents per Mcf it proposed in its letter agreement with Pacific Lighting (Exs. 93 and 492) after giving effect to (1) a rate of return of 6¼ percent, (2) the existing corporate income tax rate of 48 percent, and (3) inclusion of not in excess of $948,621 of gas prepayments in its rate base. Rates other than the CDQ–1 (set forth in Exs. 93 and 492) shall be similarly modified.

(ii) Commencing January 1, 1967, a CDQ–1 rate at a rate level which reflects a reduction of the 32.7 cents per Mcf proposed in Exs. 93 and 492 after giving effect to items (1) through (3) of ordering paragraph (E)(2)(i) above. Rates other than the CDQ–1 proposed in Exs. 93 and 492 for a capacity of 640 M^2cfd shall be similarly modified.

(3) All construction for the deliveries specified in Paragraph (E)(1) above shall be completed within one year from the date of this order.

(F) The certificate issued to El Paso shall be on the following conditions subject to construction of the necessary facilities:

(1) El Paso shall deliver maximum quantities of gas per day in addition to those under previous permanent certificates as follows (14.9 psia): commencing with the issuance of this order 150 M^2cfd; November 1, 1966, 200 M^2cfd; and November 1, 1967, 250 M^2cfd.

(2) All construction for the deliveries specified in Paragraph (F)(1) above shall be completed before November 1, 1967.

(3) El Paso shall file tariff sheets applicable to its Southern Division acceptable to the Commission reflecting as follows: Upon attaining an increase in its pipeline capacity and sales to Pacific Lighting of 200 M^2cfd (14.9 psia), rates and charges which, in addition to the reduction of its commodity rates by ¾ cent on

its Southern Division as proposed in these proceedings, shall reflect such further reduction as results after use of (1) 6⅛ percent rate of return; and (2) exclusion of any prepayments for gas from its rate base.

(G) The certificates herein issued to the pipelines, Transwestern and El Paso, are further conditioned to provide that the rates and charges computed as provided in (E)(2)(i) and (ii) and (F)(3) respectively above shall be further modified to reflect the following:

(1) If during the period commencing with the date the rates computed under (E)(2)(i) or (F)(3) above, as the case may be, become effective and ending on the first date on which rates other than those herein provided become effective, any reductions in the present rates of any gas supplied to the pipelines become final and no longer subject to court review, the pipeline shall file with the Commission appropriate reductions in their rate schedules to reflect the effect of such reductions in their costs of purchased gas; provided, however, that such reductions may be offset by them to the extent of any increased rates in the cost of gas which become effective during this period, and provided that the pipelines need not make rate reductions until the net reductions in the cost of purchased gas amount to at least 0.1 cent per Mcf.

(2) Any refunds received by the pipelines relating to the period commencing with the dates the rates computed under (E)(2)(i) or (F)(3) above, as the case may be, become effective, shall be refunded to their customers within 30 days after receipt of such refund, provided that no refund need be made unless the amount to be refunded in the case of Transwestern shall be at least $250,000, except for the final refund which shall be at least $12,500, and in the case of El Paso shall be at least $1,000,000, except for the final refund which shall be at least $50,000. The pipelines within 15 days after making any such refunds shall submit reports to the Commission setting forth the amounts refunded to each customer and the billing determinants used in the computation of such refunds.

(H) The certificates issued to El Paso and Transwestern shall be void and without force and effect unless accepted in writing by both applicants within thirty (30) days from the issuance date of the order issuing such certificate.

(I) Exceptions not granted are denied.

Commissioner O'Connor *dissenting.*

APPENDIX A

El Paso's Reserves

El Paso's San Juan Basin reserves claimed are as follows:

Blanco Mesaverde Field	6.4 tcf
Pictured Cliffs Field	2.0 tcf
Basin Dakota Field	3.6 tcf
Casinghead and other	.8 tcf
Total	12.8 tcf

There is no dispute as to the Pictured Cliffs and casinghead reserves. However, in the Blanco Mesaverde Field, in which El Paso had used a modified pressure decline method, Gulf Pacific would reduce El Paso's reserve estimate from 6.4 tcf to 4.9 tcf in large part because it disagreed with El Paso's assumption that reserves under undeveloped acreage would be equal to the average reserves per acre in the adjacent township or unit already developed. On this we agree with the staff that, although there were occasionally incongruities, the method is reasonable, and we shall accept the result. It appears that Gulf Pacific, which also used the pressure decline method in estimating El Paso's reserves, used the original pressures of the wells in many cases. Since Mesaverde has low permeability, original pressure falls off rapidly once production starts, but less rapidly as production continues. Use of original pressure in this case results in the underestimate of reserves.

In the Basin-Dakota Field Gulf Pacific reduced El Paso's estimate from 3.6 tcf to 1.7 tcf, although both companies employed a volumetric method. El Paso used the original bottom hole reservoir pressure as a basis for its estimates and used core data on 80 wells to compute porosity and interstitial water saturation. Gulf Pacific, on the other hand, used current pressure adjusted for production.

We agree with staff that the volumetric method of estimating reserves was proper for this undeveloped field and that the original bottom-hole pressure should be used rather than trying to calculate original pressure from current pressure as did Gulf Pacific. In other respects, such as porosity and connate water, the data used by El Paso and the factors which it employed were reasonable. The staff itself would have reduced El Paso's reserves in this field by 0.8 tcf because it did not think the estimates from the undeveloped portions of the field were supported, but, because of subsequent drilling, states that its reduction should be less than originally estimated. Actually, a great many wells have been drilled since staff completed its study and they are distributed in and about the field, although not in all sections. Every well drilled within the field has reached a certain amount of pay although some have been plugged and abandoned. Considering this rapid development of the field shown by the record we shall allow El Paso's claimed reserve of 3.6 tcf as reasonable.

El Paso's claimed reserves in the Permian Basin area are as follows:

Delaware Basin (Dry gas)	2.1 tcf
Dry gas	5.8 tcf
Residue gas	9.6 tcf
Total	17.5 tcf

In the Delaware Basin, both Gulf Pacific and the staff would reduce El Paso's volumetric estimate by over half.[1] Gulf Pacific contends that El Paso should not have included, as proven, reserves more than one mile from a gas well, and should not have applied its estimate to 100 percent of the thickness of the Ellenburger formation but should have used 70 percent as an assumed net pay.

This net pay reduction depends on experience in another field and is speculative. El Paso has determined the pay thickness of the Ellenburger formation by well drilling, and there is no reason to reduce it. As will be explained below whether or not we accept this and other adjustments made by Gulf Pacific will not affect our determinations here.

In the Gomez field, which draws gas from the Ellenburger formation, both Gulf Pacific and the staff would reduce the acreage to four sections. There are only two wells already proved here and, if a mile is used as a rule of thumb, not much more than four sections would be included in the producing acreage. It is a matter of public knowledge that the field is developing further and, consequently, staff's estimate is probably low; however, the record does not reflect this further development, and for the purpose here we shall accept the staff's reduction of .533 tcf from 1.17 tcf down to .637 tcf.

In the Worsham-Bayer-Ellenburger Field El Paso claimed .49 tcf, but Gulf Pacific made no allowances for reserves at all even though there was one producing well near part of El Paso's claimed acreage and an additional well was later drilled within El Paso's claimed area. Since El Paso included acreage far from the area of development, this should be excluded, and the claimed reserves, we estimate, should be reduced by approximately .30 tcf to about 0.19 tcf. The Delaware Basin reserves would thus be reduced from around 2.1 tcf to 1.3 tcf. As for the other Permian dry gas reserves, the staff properly reduced El Paso's claim in the Brown-Bassett Field by .43 tcf from .78 tcf to .35 tcf using the pressure decline method, which, contrary to El Paso's arguments, gave consistent results from well to well.[8]

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[1] Gulf Pacific by 1.3 tcf and staff by 1.4 tcf.

In Lea County, N. Mex., Humble would reduce El Paso's reserves from 1.7 tcf to 1.21 tcf. Humble used a composite pressure decline curve in estimating the reserves in these fields while El Paso used individual well curves in some of the fields. Humble contends the individual curve method is totally inappropriate since this method can only be used in fields where the producing formations are so tight that there is little communication between the wells. In our opinion the individual curve method can be used even in a completely permeable field; the individual curves can be averaged to reflect the total reservoir experience. We agree with El Paso that the use of individual well curves enables one to eliminate unrepresentative pressure readings and arrive at a more accurate estimate of reserves. Furthermore, Humble's composite pressure decline curves do not show trends unambiguously and should not be used as a basis for reducing El Paso's estimate. We shall accept El Paso's estimate.

Reserves for the 9.6 tcf of casinghead gas in west Texas are not questioned, but the availability of the supply is contested. It is alleged that El Paso assumed a too rapid increase in allowable producing days, and failed to take into account loss of gas production through water flooding to create a drive for the production of oil. As the staff points out, historically the allowable producing percentage decreased to around 24 percent in 1962 and rose to 28 percent in 1963, but El Paso used increasing percentages up to 80 percent for 1970.

While there is every reason to believe that the allowables will be increased, El Paso has gone too far. By reducing the historical allowable percentage to 40, Humble calculates on the basis of thirty fields a decrease in deliverability of about 20 percent of the Permian Basin casinghead reserves, but this would amount to only about 6.8 percent of the company's total deliverability. Humble argues that this reduction should be increased by applying it to all fields in the Permian Basin; on the other hand it has exaggerated the effect by computing reduced deliverability in direct proportion to the allowable producing percentage, neglecting some marginal wells, which are exempt from state limitations on production.

We will not make an adjustment for water flooding because El Paso's witness has already taken this factor into account in a number of fields and, as a matter of experience, water flooding does not always reduce the availability of casinghead gas, although it increases the production of oil.

To conclude on El Paso's gas supply, Gulf Pacific and Humble would reduce its 30.9 tcf of claimed reserves by about 5.2 tcf. On the basis of these reduced reserves plus a reduction in available casinghead gas from West Texas, Gulf Pacific estimates El Paso's deliverability life as of January 1, 1963 to be 10 years for the 250 M^2cfd expansion and 8 years for the larger 575 M^2cfd expansion. Gulf Pacific would reduce these deliverability lives by the time that has expired since January 1, 1963. There is no justification for this, because as time elapses additional reserves, not in the record may be added, and the deliverability life further extended.

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[8] The staff reduction of .87 tcf applied to reservoir volumes of 1.58 tcf, which are about half carbon dioxide, already taken into account by El Paso.

In accordance with the discussion above we would reduce El Paso's reserves by approximately .53 tcf in the Gomez Field, by .30 tcf in the Worsham Field and by .43 tcf in the Brown-Bassett Field, or 1.26 tcf in all. The staff would have reduced El Paso's reserves by about 1.75 tcf,[8] and El Paso's deliverability life of 15 years for the smaller expansion by only about a third of a year. However, the staff's study did not reflect the reduced availability of the west Texas casinghead gas nor partly offsetting increased estimates of El Paso's reserves in Basin Dakota and Gomez amounting to .92 tcf. Based upon our determinations of El Paso's reserves and making some allowance for the decreased availability in west Texas, El Paso's deliverability life would amount to at least 11 or 12 years even for the major expansion. At certain stages of the divestiture proceedings the Department of Justice advocated the transfer of additional reserves, amounting to .6 tcf or 1.25 tcf, to the "New company", which will take over El Paso's Northwest Division. These additional amounts would be less than five percent of El Paso's reserves and would not change the result substantially. In any case there is a good possibility the gas would be sold to El Paso. We have no difficulty in finding that El Paso's deliverability life is clearly adequate to support either its original application or its expanded application.

Even if we followed the Gulf Pacific and Humble reductions completely and reduced El Paso's deliverability to 10 and 8 years as of January 1, 1963, we would still find El Paso's gas supplies adequate for these proceedings. El Paso has displayed an aggressive gas acquisition policy in the prolific Permian Basin area and there is no reason not to believe it will continue to do so in the future. Therefore the deliverability requirement should be flexible as provided in § 2.61(a) of our Rules, discussed below.

APPENDIX B

SUMMARY OF PRINCIPAL ASSUMPTIONS

Unless otherwise noted, the principal assumptions underlying these studies were those contained in our staff's calculation of comparative economics, presented in the staff's brief to the examiner and summarized in its brief on exceptions. The market assumed is that used in the staff's studies of comparative economics. However, the results would be almost identical using the substantially similar Gulf Pacific market estimates.

In the assumption "Without Gulf Pacific" the volumes and rates used were those proposed by Transwestern and by El Paso in its basic application.

In the study "With Gulf Pacific" third year volumes at 100 percent load factor were used and the rates reflect 20-year average rates for Gulf Pacific assuming a 6 percent rate of return and a field price of 17.09¢ per Mcf (at 14.73 psia). The El Paso and Transwestern rates used in this study are those presently in effect.

No adjustment has been made to reflect the different Btu contents of the various supplies.

In the study "Without Gulf Pacific" about 16,000 M^2cf more storage was scheduled than in staff's study of comparative economics. In the study "With Gulf Pacific" about 10,000 M^2cf less storage was scheduled than in the staff's calculation of comparative economics. No additional storage facilities were added to existing facilities in either study.

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[8] Adjusting the Brown-Bassett reduction for CO_2 content.

APPENDIX B

SCHEDULE 1

SUMMARY OF VOLUMES AND COSTS WITHOUT GULF PACIFIC, YEAR 1970

Source	Contract Demand, M^2cfd	Annual Volume, Mcf	Load Factor, Percent	Cost At Delivery Point	Cost At Load Center	Average Cost, Cents/Mcf
Basic:						
El Paso	1,395.9	509,503,500	100	$147,756,015	$163,041,120	32.00
Transwestern	640.0	233,600,000	100	77,555,200	84,563,200	36.20
California Source Gas:						
Basic	570.6	208,270,000	100	68,044,675	75,744,535	34.57
Emergency	125.0	850,000	100			
Seasonal	300.0	10,000,000	100			
Storage	675.0	42,073,900	161.82	7,281,721	7,281,721	17.31
Total	----------	962,223,500	----------	300,637,611	330,630,576	34.36

APPENDIX B

SCHEDULE 1

SUMMARY OF VOLUMES AND COSTS WITH GULF PACIFIC, YEAR 1970

Source	Contract Demand, M^2cf/ Day	Annual Volumes, Mcf	Load Factor, Percent	Cost At Delivery Point	Cost At Load Center	Average Cost, Cents/ Mcf
Basic:						
El Paso	1143.0	417,195,000	100	$124,073,793	$136,589,643	32.74
Transwestern:						
Firm	300.0	109,500,000	100	45,771,000	49,056,000	44.80
LX	45.0	16,425,000	100	3,942,000	4,434,750	27.00
Gulf Pacific	800.4	292,146,000	100	85,832,495	85,832,495	29.38
California Source Gas:						
Basic	570.6	208,270,000	100	68,769,312	76,439,422	36.42
Seasonal	300.0	1,634,100	100			
Emergency	125.0	0	0			
Storage	675.0	16,228,100	62.4	6,545,304	6,545,304	40.33
Total	----------	1,045,170,100	----------	334,933,904	358,897,614	34.34
Less Gulf Pacific	----------	292,146,000	----------	85,832,495	85,832,495	29.38
Cost to Pacific Lighting	----------	753,024,100	----------	249,101,409	273,065,119	36.26

APPENDIX B

SCHEDULE 2

BORDER PRICE CALCULATION AND CALIFORNIA GAS COST WITHOUT GULF PACIFIC

Source	Volume, M^{2}cf	100% LF, Cents/Mcf	Cost Per Day, Dollars/ Million	Border Price, Cents/Mcf	Total Cost
Border Price:					
El Paso	1,395.9	29.0	404.81		
Transwestern	640.0	33.2	212.48		
Total	2,035.9		617,29	30.32	
California Gas Cost:					
Basic	208,270.0				$63,147,464
So. Coles	7,500,0				2,274,000
No. Coles	7,500.0				2,274,000
Emergency	[1] 850.0				349,211
Total					68,044,675
Transportation Cost:					
Basic	208,270.0				
Exchange	876.0				
So. Coles	5,000.0				
No. Coles	5,000.0				
Emergency	850.0				
Total	[2] 219,996.0				7,699,860
Grand total					75,744,535

[1] ×1.355.
[2] At 3.5¢/Mcf.

APPENDIX B

SCHEDULE 2

BORDER PRICE CALCULATION AND CALIFORNIA GAS COST WITH GULF PACIFIC

Source	Volume, M^{2}cfd	100% LF Price, Cents/Mcf	Cost Per Day, Dollars/M	Border Price Cents/Mcf	Total Cost
Border Price:					
El Paso	1,143.0	29,74	339.93		
Transwestern:					
Firm	300.0	41.80	125.40		
LX	45.0	24.00	10.80		
Total	1,488.0		476.13	32.00	
California Gas Cost:					
Basic	208,270.0				$66,646.400
So. Coles	4,146.5				1,326.880
No. Coles	2,487.6				796,032
Emergency	0				0
Total Gas Cost					68,769,312
Transportation Cost:					
Basic	208,270.0				
Exchange	876.0				
So. Coles	5,000.0				
No. Coles	5,000.0				
Emergency	0				
Total	[1] 219,146.0				7,670,110
Grand total					76,439,422

[1] At 3.5 c/Mcf.

APPENDIX B

SCHEDULE 3

PRICING OF OUT OF STATE GAS WITHOUT GULF PACIFIC

Source	Volume, Mcf	Load Factor, Percent	100% LF Price, Cents/Mcf	Cost At Delivery Point	Transportation @ 3.0¢/Mcf	Cost at Load Center
El Paso	509, 503, 500	100	29. 00	$147, 756, 015	$15, 285, 105	$163, 041, 120
Transwestern	233, 600, 000	100	33. 20	77, 555, 200	7, 008, 000	84, 563, 200
Total	743, 103, 500	100	----------	225, 311, 215	22, 293, 105	247, 604, 320

APPENDIX B

SCHEDULE 3

PRICING OF OUT OF STATE GAS WITH GULF PACIFIC

Source	Volume, Mcf	Load Factor, Percent	100% LF Price, cents/Mcf	Cost At Delivery Point	Transportation @ 3.0¢/Mcf	Cost at Load Center
El Paso	417, 195, 000	100	29. 74	$124, 073, 793	$12, 515, 850	$135, 589, 643
Transwestern:						
Firm	109, 500, 000	100	41. 80	45, 771, 000	3, 285, 000	49, 056, 000
LX	16, 425, 000	100	24. 00	3, 942, 000	492, 750	4, 434, 750
Total	125, 925, 000	----------	----------	49, 713, 000	3, 777, 750	53, 490, 750
Grand Total	543, 120, 000	100	----------	173, 786, 793	16, 293, 600	190, 080, 393

APPENDIX B SCHEDULE 4

STORAGE GAS WITHOUT GULF PACIFIC

LaGoleta Storage Field:	
Fixed Cost:	
23.26¢ × 13,500,000 Mcf equals	$3, 140, 100
Fuel Cost:[1]	
0.63¢ × 21,846,063 Mcf[2] equals	137, 630
Variable Cost:	
0.11¢ × 21,846,063 Mcf equals	24, 031
Subtotal	3, 301, 761
Montebello Storage Field:	
Fixed Cost:	
23.26¢ × 12,500,000 Mcf equals	2, 907, 500
Fixed Charge on First 5,000,000 Mcf (Minimum):	
4.95¢ × 5,000,000 Mcf equals	247, 500
Charge on Next 5,000,000 to 10,000,000 Mcf:	
4.95¢ × 5,000,000 Mcf equals	247, 500
Charge on Gas over 10,000,000 Mcf:	
4.4¢ × 10,227,837 Mcf equals	450, 025
Fuel Cost:	
0.63¢ × 20,227,837 Mcf[3] equals	127, 435
Subtotal	3, 979, 960
Total	7, 281, 721

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[1] Fuel charge only on Mcf injected.

[2] $\frac{13.5}{26.0}$ (42,073.9 MMcf) = 21,846,063 Mcf.

[3] $\frac{12.5}{26.0}$ (42,073.9 MMcf) = 20,227,837 Mcf.

APPENDIX B SCHEDULE 4

STORAGE GAS WITH GULF PACIFIC

LaGoleta Storage Field:	
Fixed Cost:	
23.26¢ × 13,500,000 Mcf equals	$3,140,100
Fuel Cost:[1]	
0.63¢ × 8,426,129 Mcf [2] equals	53,085
Variable Cost:	
0.11¢ × 8,426,129 Mcf equals	9,269
Subtotal	3,202,454
Montebello Storage Field:	
Fixed Cost:	
23.26¢ × 12,500,000 Mcf equals	2,907,500
Fixed Charge on First 5,000,000 Mcf (Minimum):	
4.95¢ × 5,000,000 Mcf equals	247,500
Charge on Next 5,000,000 to 10,000,000 Mcf:	
4.95¢ × 2,801,971 Mcf equals	138,698
Charge on Gas over 10,000,000 Mcf:	
4.4¢ × 0 equals	0
Fuel Cost:	
0.63¢ × 7,801,971 Mcf [3] equals	49,152
Subtotal	3,342,850
Total	6,545,304

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[1] Fuel charge only on Mcf injected.

[2] $\frac{13.5}{26.0}$ (16,228.1 MMcf) = 8,426,129 Mcf.

[3] $\frac{12.5}{26.0}$ (16,228.1 MMcf) = 7,801,971 Mcf.

O'CONNOR, *Commissioner, dissenting:*

By certificating the Tailored Supply Program (TSP), the majority has presented the consumers of southern California with a short-term solution to a long-term problem. The declared purpose of this proceeding was, "to determine how the *long-term* needs for natural gas deliveries to southern California may be met in the manner which is most desirable from the standpoint of the public interest." [Emphasis added] (*El Paso Natural Gas Co.*, Opinion No. 393, 30 FPC 77 at 92 (1963)). The reasoning behind the majority's facile rejection of this heretofore declared purpose is unascertainable.

The purpose of a comparative hearing is to accord mutually exclusive applicants a full hearing on the merits of their alternative projects, and it is well established that, absent a finding of urgent necessity, a hearing on the merits must be provided. *Ashbacker Radio Corp.* v. *F.C.C.*, 326 U.S. 327 (1946). By considering only the period up to 1968, and making no effort to consider reasonable projections introduced by all parties for the period into 1970 and beyond, the majority conveniently avoid the comparative merits of Gulf Pacific since that project necessarily is delayed until 1968 by the sheer immensity of time consumed by administrative delay. Since the expanded El Paso proposal represents but an extension of the Tailored Supply Program, the majority's reluctance even to provide at least five years of relative supply stability is inexplicable. There is no finding that additional supplies beyond 1968 are not necessary. There is no finding that El Paso expanded is not required. Neither is there a finding on a comparative basis as to why Gulf Pacific must be denied. The majority's anomalous position, after a decade of extensive effort by the parties here to settle their market requirements, requires scrutiny.

Consider what they deny. The Gulf Pacific project would provide the necessary supplies of gas for the reasonably foreseeable market at the lowest possible costs to consumers. Furthermore, the certification of Transwestern guarantees the short-term market while continuing the historical levels of service traditionally realized in southern California. As collateral benefits, the Gulf Pacific-Transwestern projects would introduce supplies of natural gas adequate to reduce certain amounts of air pollution, which the majority would argue are insignificant, but which nevertheless contribute to the overall air pollution problem and could be readily and conveniently eliminated as a result of certificating these projects. In addition, the Gulf Pacific project also introduces a competitive second supplier into southern California and provides to the major electric utilities an assured long-term supply which will enable them to lower rates to utility consumers and compete for energy services with the present supplier. Furthermore, it represents one of the finest gas supply proposals ever presented to this Commission.

Instead of responsive findings on these critical issues, the majority has chosen to place its faith in the highly speculative possibility of nuclear and remote mine-mouth coal generation coming into competitive being by 1970 to meet the demands of this rapidly growing market. Such a chimera denies Gulf Pacific a proper comparative hearing.

It is clear that when Gulf Pacific is considered on its merits, the majority cannot support the result they seek for that project's comparative benefits, jointly with Transwestern, are overwhelmingly favorable on virtually all points as against the alternatives. By refusing to make the comparison required, the majority are apparently hopeful the producers supporting Gulf Pacific will withdraw. If anything, the holding back has come from administrative delays, and by the necessity, within accepted conservation practices, to develop the reservoirs to their maximum potential of oil and gas production. The proclivity of some to ascribe uneconomic motivations to producers should cease, for the Permian area rate proceeding established that producers are not receiving unreasonable revenues from their production efforts. The majority's action also reflects their determination to deny the right to make an unregulated, direct sale, although today's opinion need not even consider the issue if supply only to 1968 is required.

This proceeding has resulted in one of the most comprehensive records ever compiled, and all issues have been thoroughly and carefully considered. A problem of long-standing urgency demands a long-term solution, and all the elements for decision are before us. This Commission should acknowledge the effort, make its comparative analysis, and reach its decision on the merits. Since the majority does not, it is necessary to consider the record at length in order that their combined position not disregard the fundamental issues before this Commission. A prediction of probable future developments for at least the next five years must be attempted, as this Commission has done in every other proceeding but this one.

I. THE COMPARATIVE MERITS—INTRODUCTION

In competitive pipeline proceedings the primary issue is a determination of which project, or projects, would provide the necessary reliable service at the least cost to consumers. In this proceeding that applicant is Gulf Pacific.

Nevertheless, the comparative merits do not end with the cost consideration but the resolution of the issue places the burden of persuasion upon opponents to demonstrate overriding policies which compel denial. In this proceeding all collateral benefits preponderate in favor of Gulf Pacific. As recommended by Examiner Kurtz, the State of California, The Department of Health, Education, and Welfare, and the City of Los Angeles that project should be certificated. The majority opinion neither considers the comparative issues nor responds to the positions of these public authorities. This being the case, the opinion cannot readily be supported.

The majority apparently advance three fundamental reasons for rejecting the Gulf Pacific project. First, they emphasize incremental costs should govern, even though that position gives scant consideration to rolled-in costs, which are the rates paid by consumers. Second, they argue that certification of Gulf Pacific even with conditions pertaining to Humble's non-jurisdictional producer sale, would have disruptive effects on jurisdictional sales in Texas Railroad District No. 3 since the Commission could not directly regulate Humble's prices to Edison and Department. Third, they rely upon flexibility, and authorize no more than a short-term, declining supply, apparently believing natural gas no longer should play a major role in southern California's energy supply. This unarticulated but necessary belief requires a fundamental review of all policies with regard to natural gas, for if alternative fuels will be priced lower than the rates here proposed, we must reject pipeline expansion, revise the clairvoyance of liberalized depreciation treatment, disallow expenditures for future investment in gas-fired steam electric plants, and increase depreciation rates in order that the industry recover its investment over the limited future available to it. The flexibility demanded by the majority, absent a full explanation for the major new departures announced this day, must result in uncertainty or rapid recover of industry investments as soon as possible. The majority place themselves in control of future energy patterns for southern California, yet they cite no reason for the management's abuse of discretion here. Neither do they cite valid reasons for suddenly rejecting all projections for the next decades, nor set forth any careful and convincing facts in support of their position.

II. THE MARKET FOR NATURAL GAS IN SOUTHERN CALIFORNIA

Of the many issues in this proceeding, the one which has assumed paramount significance is that of the role to be accorded natural gas in meeting, at the lowest possible cost to consumers, the energy requirements of southern California for the foreseeable future. The majority decision, reflecting an uncertainty about the future role for natural gas determining that other sources of energy are preferable, chooses the short-term proposal of Pacific Lighting, even though that alternative is more expensive to consumers and provides inadequate supplies for the area.

1. TRADITIONAL PATTERNS OF ENERGY CONSUMPTION

It is common knowledge that southern California has grown rapidly, and, to the extent we can have confidence in the future prosperity of the nation, that area promises to continue expanding at one of the fastest rates in the nation. Furthermore, we can be certain the area's energy requirements will grow even more rapidly as new technology and affluence make more expansive demands for energy.

To appreciate this expansion and need, it is only required to review the history of energy developments in southern California. Prior to 1940 the area had abundant supplies of natural resources nearby, and it was able to meet all its energy requirements from within the state. Hydroelectric power was the primary source of electric generation, although large supplies of oil and gas were increasingly utilized for steam generation. During World War II these fossil fuels became imperative as the area's population expanded. In less than a decade the market expanded to over three times its prior size. In the course of this market explosion all hydroelectric facilities were thoroughly developed, and the bulk of intrastate fuel resources was fully utilized. In the absence of coal, energy had to come from oil and gas. It was in this background that critical shortages of energy in 1946 led to El Paso's entry into southern California, and it was from this source that supplies proved adequate over the next decade. By the late 1950's requirements were such that El Paso could not meet the demand, and it was necessary for Transwestern to be certificated.

Since 1959, however, no additional supplies of natural gas have been permanently certificated into southern California.

The period since the mid-1950's instead has witnessed major efforts on the part of the electric utilities there to acquire assured volumes of natural gas at the lowest possible cost. The energy requirements have been tremendous, and the conflicts of major proportions. As early as 1955 Edison sought additional supplies from Pacific Northwest. The outcome of this effort has been documented by the Supreme Court as follows:

> In 1956 (Pacific Northwest) indeed engaged in negotiations for the sale of natural gas to Southern California Edison Co. (Edison). The latter, largest industrial user of natural gas in Southern California, used El Paso gas purchased through a distributor. It had, however, a low priority from that distributor, being on an "interruptible" basis, *i.e.*, subject to interruption during periods of peak demand for domestic uses. Edison wanted a firm contract and, upon being advised that it was El Paso's policy to sell only to distributors, started negotiations with Pacific Northwest in May 1956. The idea was for Pacific Northwest to deliver to Edison at a point on the California-Oregon border 300 million cubic feet of Canadian gas a day. In July 1956 they reached a tentative agreement. Edison thereupon tried to develop within California an integrated system for distributing Canadian gas supplied by Pacific Northwest to itself and others. El Paso decided to fight the plant to the last ditch, and succeeded in getting (through a distributor) a contract for Edison's needs. Edison's tentative agreement with Pacific Northwest was terminated. Before Edison terminated that agreement with Pacific Northwest, Edison had reached an agreement with El Paso for firm deliveries of gas; and while the original El Paso offer was 40¢ per Mcf, the price dropped to 38¢ per Mcf, then to 34¢ and finally to 30¢. Thereafter, and while the merger negotiations were pending, Pacific Northwest renewed its efforts to get its gas into California. *U.S.* v. *El Paso Natural Gas Co.*, 376 U.S. 651 (1964).

The majority opinion leaves this unmentioned. Yet the competitive background for the last decade cannot be overlooked nor can its effect, as found by the Supreme Court be disregarded. The merger of Pacific Northwest with El Paso, since dissolved by the Supreme Court, terminated efforts in this direction. Edison then sought to obtain firm supplies from El Paso, but this was denied by this Commission for the reason that proper allocations of costs for use of the pipelines' facilities could not be satisfactorily resolved. See *El Paso Natural Gas Co.*, 22 FPC 900 (1959). At the same time, it was making this ill-fated effort, Edison had begun negotiations with Tennessee Gas for supplies from the Texas Gulf Coast. This proposal led to the Pemex project, which was subsequently withdrawn in 1963, due to the availability of the cheap supplies now before us. In the meantime El Paso was also seeking to make the necessary supplies available. As early as 1955 it had entered into agreements to take gas to be supplied from the Gulf Coast. These early efforts were not successful, but severe shortages of El Paso's supply led to its proposed entry into South Texas with the Lo-Vaca project. El Paso was also seeking new supplies from the Rocky Mountain area by means of a pipeline from Rock Springs into California. This Commission approved the project, subject to approval by the California Public Utilities Commission. The CPUC would have imposed strict conditions on the project, and subsequent consideration led to abandonment for the reason, among others, that no new pipeline would be needed in southern California until 1968. The Gulf Pacific project, presently before us was put together to fulfill this need.

From this background it would appear to be manifest that further efforts to disrupt patterns in southern California should be avoided for, no matter how much this Commission can be confident of its regulatory abilities, it cannot force applicants to come before it. We are, like it or not, in the position of having to pass upon applications, not initiating them, and, due to the tremendous expense and delay inherent in providing an acceptable project, an opportunity for supply must be taken or it will likely demise with no alleviation of area market problems. See *Natural Gas Pipeline Company of America, et al.*, Opinion No. 474 (issued September 9, 1965, 34 FPC 771). The proceeding on remand, proved unviable. By order of February 24, 1966, 35 FPC 251 at p. 252, in that same proceeding, this Commission stated, "It is unfortunate that there is not now pending an application to deliver gas to Mississippi at St. Louis. However, * * * the Natural Gas Act does not give this Commission authority to compel the enlargement of transportation facilities." * * * We can be certain further competitive proposals to serve Southern California from the Texas Gulf Coast will not be forthcoming, except through those pipelines presently serving the area. However, it is clear that Edison will continue to seek additional long-term supplies, at lower costs than are permitted it by Pacific Lighting. If it is unsuccessful in finding traditional energy sources at attractive prices, it will be forced to turn to other sources more speculative in nature at uncompetitive prices within the foreseeable future. To be forced into such a position will also involve considerable expense in non-utilization of existing facilities.

PATTERNS OF NATURAL GAS SUPPLY

In order to determine the immediate pattern of natural gas supply into southern California it is only necessary to consider the levels of service which have prevailed over the last five years. This level will provide some indication of future needs, at the optimum level of service traditionally realized in that area, although not, contrary to the majority, the pattern which will be least expensive to the present distributor. We cannot consider supplies merely in terms of costs, for it is clear that, were this approach taken, the cheapest supply would be to curtail any further expansions. The majority's shortsighted solution may contemplate this result in their efforts to control end-use patterns. The market, however, is there, and it must be served if the public utility concept of natural gas service at adequate supply to consumers is to be realized.

Turning therefore to the past history of Pacific Lighting's service, its obligations and service can be set forth.

	1960	Ex. 76 1961	1962	Ex. 469 1963	Ex. 887 1964
Gas Purchases	625	664	727	741	847
Storage Withdrawal	36	34	32	44	51
Total Supply	661	698	759	785	898
Firm	312	315	355	350	403
Storage Injection	40	27	42	39	49
Total Interruptible Market	407	434	435	470	540
Voluntary use of Alternative Fuels	79	76	55	72	27
Curtailment	19	2	18	2	68
Percent Curtailment of Involuntary Users of Fuel Oil	5	0	4	0	13

These figures establish the pattern of natural-gas use in Southern California. It must be emphasized that:

1. All firm requirements have been met;
2. In 1961 and 1963 virtually all the interruptible requirements were met;
3. The shift in 1964 in voluntary use of fuel oil reflects the imposition by local authorities of requirements that natural gas be utilized whenever possible;
4. Even for 1964, the market for interruptible sales would have been thoroughly met except for an unusually cold year with degree days increasing from 1750 to 1845. Had 1964 been an average year, curtailment would have been only 25 M^{3}cf, so that there would have been curtailment of only five percent of all interruptible sales, excluding voluntary use of fuel oil. Thus, even with the heavy imposition of air pollution restrictions, the market to be satisfied received virtually the same service.

The pattern emerges clearly. Natural gas has been the major source of energy for southern California. Even the lowest priority customers have received virtually 100 percent service. The use of fuel oil has declined, in part because of strict air pollution restrictions and in part due to its high cost.

By tailoring supplies of natural gas to Pacific Lighting's existing system, the majority is in effect denying adequate supplies to meet the traditional market of southern California. The result will unquestionably be an increase in energy costs in the future.

3. THE FUTURE MARKET FOR NATURAL GAS

It is clear the southern California area is expanding vigorously, at a rate of more than 100,000 cubic feet a day of 40 billion cubic feet a year. Major additional supplies of natural gas are required to maintain adequate service.

The exact size of the southern California market has been the subject of much consideration in this proceeding. Pacific Lighting, Gulf Pacific and the Commission staff have each presented their own market estimates. Based upon 1970, very likely the second year of operation for Gulf Pacific, the forecasts of the total fossil fuel market available to gas in the Pacific Lighting service area including that of San Diego Gas and Electric Company and Long Beach (M^{3}cf at 14.73 psia) are as follows:[1]

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[1] It must be assumed that to the extent gas is not available to serve the entire market, service to the interruptible customers will be curtailed and the needs of the customers will be met by alternative supplies of fuel oil. The allowance for voluntary use of alternative fuels reflects those customers who choose to burn oil even though unlimited gas is available. They would all be located outside the Los Angeles area, because of Rules 62 and 62.1 of the Air Pollution Control Board.

	Pacific Lighting	Gulf Pacific	Staff
Firm	494	477	493
Other interruptible	201	250	201
Steam electric	472	508	508
Gross Market	1,167	1,235	1,202
Less Voluntary Use of Alternative Fuels Outside the Los Angeles Area	36	65	36
Total	1,131	1,170	1,166

In appraising these estimates certain adjustments in each category are required. The parties generally agree on the firm category with the exception of Gulf Pacific's placing some 15 M^{3}cf in the interruptible category since it is exchange gas. It appears that this amount is firm, based upon figures provided by Pacific Lighting to the CPUC. In the "other interruptible" category, certain adjustments are required. The Pacific Lighting figure is not correct for it is based upon a load growth projection which has already been exceeded. On the other hand the Gulf Pacific figure is based upon growth rates for 1950–56, instead of the more recent record of 1956–64, which indicates a somewhat lower rate of growth. Gulf Pacific also included the full amount of exchange gas in this category. Neither party's figure is correct, so we should use a figure reflecting a slightly more rapid rate of growth than Pacific Lighting, which would appear entirely proper where sufficient quantities of gas are available at low rates. Accordingly, the record supports the figure of 218 M^{3}cf. Pacific Lighting's requirements for steam electric are understated. This arises from the fact that they relied upon projections of electric requirements developed in 1962, while the figures used by Gulf Pacific and the staff are based upon 1964. We think the more recent Gulf Pacific figure of 508 M^{3}cf a year should be used, but only as a starting point.

None of the market requirements reflect the presently proposed use of coal to develop power at sites outside the Los Angeles area or of the use of intertie power from the Pacific Northwest. These additional sources of electric energy will be forthcoming by 1970 and even earlier. The date of these proposals has been advanced since the basic estimates were made and, while no definitive statement as to the amounts of energy are in the record, they have been reflected in projections prepared by Edison. By 1970, or earlier, a steam electric plant known as Four Corners or Navajo will be built in New Mexico and a plant known as Mohave will be built in Nevada for the production of power, part of which will be transmitted to the Los Angeles area for consumption on Edison's system. By 1968 large blocks of purchased power will also be available. Estimating from Edisons' graphic projections approximately 50 M^{3}cf a year should be deducted from the estimate of steam electric requirements to allow for the operation of these plants, and an additional 30 M^{3}cf should be deducted for purchased power. On the other hand, this latest presentation on the record increases Edison's requirements by 25 M^{3}cf, and this increase should also be reflected.

The allowances for the voluntary use of fuel oil outside the Los Angeles area are estimated by Pacific Lighting and Staff without Gulf Pacific in operation. With Gulf Pacific in operation they would deduct 27 M^{3}cf from the market available to gas. The Gulf Pacific figures, on the other hand, are unduly high due to their projecting a larger market and estimating for fuel oil off the Pacific Lighting system. There are no figures to indicate total fuel oil use in southern California. On the other hand, when consideration is given to the projected pattern of fuel use by Pacific Lighting, it is clear more gas can be utilized by present customers if the gas is available. In 1966 it shows a "hard core" of only

21 M^3cf; in 1967, this is at 22 M^3cf; and in 1968 it is at 23 M^3cf. This indicates very clearly that under either proposal there will be an impact on fuel oil, but one required not by this Commission but by local authorities.

With these changes in Pacific Lighting's service area, the market estimate is as follows:

Market Available to Gas (M^3cf per year at 14.73 psia)

Firm	493
Other interruptible	218
Steam electric	452
Gross Market	1,163
Less Voluntary Use of Alternative Fuels outside Los Angeles Market	(21)
Total Market—1970	1,142

Although the majority refuse to make any finding as to the 1970 market—now less than 3½ years in the future, the above estimate will in all probability materialize. Of course, changes can occur statistically within deviations of approximately 12 M^3cf (1%) of the market figure, depending upon availability and price of gas.

4. APPLICANTS' PROPOSALS TO MEET THIS MARKET

To serve this market El Paso and Transwestern propose in their original applications—part of the Tailored Supply Program, to deliver the following amounts of gas.

California sources	224 M^3cf
El Paso (as presently certificated—1,143 M^2cfd)	417
El Paso—TSP—(253 M^2cfd)	92
Transwestern (Present 300 M^2cfd)	109
Transwestern—(TSP—340 M^2cfd)	124
Total	966 M^3cf

This uses Pacific Lighting's estimate of gas from California sources, although the record does not show the reserves and deliverability of this gas. Gulf Pacific objects to this estimate, but any upward bias would likely be accounted for by evidence of record that deliveries could go higher as new fields are developed. This project is woefully short of the projected market by 176 M^3cf. The Tailored Supply Program does not meet the immediate annual market. Of course, Pacific Lighting says it is willing to meet any demand, but by its own admission a higher level of service at greater costs will be required. The record is silent as to where these supplies will come from or what they will cost. Any close examination of the market would call for the elimination of TSP.

Under El Paso's expanded proposal, which would be in addition to TSP, deliveries would be as follows:

California sources	224 M^3cf
El Paso (as presently certificated—1,143 M^2cfd)	417
El Paso—(proposed—582 M^2cfd)	212
Transwestern (Present 300 M^2cfd)	109
Transwestern (additional 340 M^2cfd)	124
	1,086 M^3cf

This proposal, the only one which shows supplies and costs adequately, is also replete with shortcomings—deficient by 56 M^3cf, and would not provide the service necessary.

If Gulf Pacific should be certificated along with part of the Transwestern proposal, as advocated by the California Commission, deliveries would be as follows in 1970:

California sources	224 M^{3}cf
El Paso (as presently certificated—1,143 M^{2}cfd)	417
Transwestern (300 M^{2}cfd)	109
Gulf Pacific (third year—750 M^{2}cfd)	273
	1,023 M^{3}cf
Additional Transwestern (235 M^{2}cfd)	86
Total	1,109 M^{3}cf

If Transwestern is certificated in its entirety, the total supply, including the additional 38 M^{3}cf, would be 1,147 M^{3}cf. Assuming the hard core of fuel oil will remain unchanged, this would mean excess total supply at only 5 M^{3}cf. Compared with the estimated market requirements of 1,142 M^{3}cf for 1970, it is clear that the Gulf Pacific proposal could be readily absorbed by this market. The market could also use all the gas from Transwestern, assuring the projected leeway.

In the light of this supply the majority's reluctance to proceed as required cannot be readily explained. The market is there. Only Gulf Pacific with Transwestern will meet it. Reluctance to supply the market must be explained in terms of rates or other policies. However, as developed hereinafter, the majority cannot do so.

The above analysis of the market presentations is a measure of the immediate task before this Commission. At least for the next four years it should provide a certain stability to the market. In addition, over the long term there are compelling considerations which militate in favor of Gulf Pacific. The examiner stated that, unless additional sources of electric energy are available, there will be a need for a new Gulf Pacific every six years. It is clear that alternative sources will be developed; however, the extent to which they would fulfill the requirements for the next twenty years is speculative. Estimates have ranged from fifty to one hundred percent of future requirements. Edison has stated it does not consider the fifty percent figure unreasonable. However, it seems unduly optimistic to expect the entire needs to come solely from out-of-state plants. The existing steam plants in Los Angeles certainly cannot be retired from service, and both utilities are presently adding additional generation capacity at existing sites. Even should the entire market which would develop in the future be dedicated solely to coal and Northwest hydro electric power, the present supplies would be required and would be fully utilized. In my opinion the more likely result is that additional natural gas will be utilized. This is the conclusion reached in the *National Power Survey*, Vol. II (Advisory Committee Report No. 18,211, *et seq.* (1964) at p. 56), where it was predicted that use of natural gas in the Pacific states would more than double by 1980, increasing from an actual consumption in 1960 of 39 M^{4}cf to 74 M^{4}cf in 1970 and to 83 M^{4}cf in 1980. The Advisory Committee Report concludes: "Although all three major gas use categories should increase from 1960 through 1975, electric generation should increase the most, about 129 percent, compared with some 43 percent for industrial use and 85 percent for residential and commercial use." *National Power Survey, supra*, p. 211, *et seq.* Thereafter, decreasing electric use is predicted, but industrial, commercial, and residential service will increase. That Survey also predicted a decline in fuel oil use, and the advisory committee indicated a "steady downward trend" noting it would result "largely because of such factors as air pollution control and the cost of coal and nuclear generation." Local controls have brought about that decline. The majority's order reverses the decline.

5. IMPACT UPON PACIFIC LIGHTING'S LOAD BALANCING REQUIREMENTS

It is well established for the natural gas business that load-balancing is required for a distributor to be able to balance high winter peak demand with low summer valleys. Pacific Lighting alleges it will lose this ability; however, it has not established that level which is the necessary dividing point for its load equation requirements. In arriving at a measure of this potential impact, we are forced to make certain assumptions. First, it must be conceded that southern California has realized a high degree of firm service to interruptible customers. The industrial economy is strongly devoted to that pattern, and the local air pollution authorities have further required it. Second, it is clear this Commission should certificate at least sufficient capacity to meet the peak day requirements of the area. It appears clear from the record that Pacific Lighting has purchased more than sufficient supply to meet the peak day requirements, and this firm supply has been certificated by the Commission to continue the traditional patterns of energy supply to the area. While there is some question as to the propriety of the cost allocations between firm and interruptible, this is a matter outside our jurisdiction. The CPUC approves or permits these allocations, and any changes will be possible only from that agency. In any event the result would be to increase the interruptible rates, at least for those customers who receive the higher priorities of service. This serves only to increase the more preferable status of the unchanging Gulf Pacific rates, discussed hereinafter.

Although I agree with the peak day requirements figure developed by the majority, it would be erroneous to attach any significance to it. The majority obscures the issues of this case by disregarding the fact that the parties were primarily concerned with the annual interruptible industrial market which Gulf Pacific and Transwestern can unequivocably meet. Instead of accepting these facts, the majority improperly seeks to shift the emphasis away from the annual interruptible market to peak day requirements which it maintains Gulf Pacific cannot meet in 1970.

The irony of this position is that TSP takes its last increment in 1967, but is completed in 1968. To carry it further, more gas must be purchased at additional costs if TSP is to be extended to 1970. Despite these factors, the majority points out that TSP will not only meet all the requirements of its system-wide firm customers in 1970, but also be able to supply, "* * * *all* of the *interruptible* requirements in Los Angeles County where Rules 62 and 62.1 are in effect." [Emphasis added.] No mention is made, however, of exactly how they propose to take care of the requirements of the interruptible customers outside of Los Angeles County who have heretofore enjoyed an exceptionally high historical level of service. This weakness will be inherent in TSP from the beginning. The obvious answer is that these customers will either have to undergo serious curtailments or be driven to obtain new sources of energy supply which may not be readily available or economical.

The majority goes on to allege that the TSP will be able to meet the peak day demands in 1970 but Gulf Pacific will not. By the majority's figures, however, it is entirely probable that Gulf Pacific and Transwestern, in combination with sources of Richfield and pressure maintenance project supplies would be able to meet the peak day demand, albeit by a very narrow margin. I submit, however, that peak day requirements were of very little concern to any of the parties during this proceeding and that if the majority want to shift the emphasis to this phase of the market, they should say what peak day supply is required in 1968 to take care of the interruptible market and what interruptible market is necessary to take care of the peak day requirements in 1970. If this were done, the total inadequacy of the TSP would be apparent. It is evident that the parties did not consider peak day supply of paramount importance in this case as reflected in the fact that El Paso and Pacific Lighting did not initially provide for the TSP to extend to 1970. Thus, the majority is obscuring the true market issues by according peak day such importance.

On the other hand, we can obtain some measure of the impact on Pacific Lighting if it is denied the interruptible sales to Edison and Department. It appears clear that this severance would not adversely affect its load equation requirements. If Transwestern is certificated for its full volumes, and assuming Gulf Pacific is in its second year of operations by 1970, there would be a total supply of 4,042 M^2cfd, with excess requirements amounting to less than 90.5 M^2cfd, which could easily be provided by a slight increment in storage or out-of-state supply, or by curtailment of certain interruptible customers. Thus, as stated by Humble, "The size of the increment of interruptible market which will be a loss sale [firm interruptible beyond load equation] increases to such an extent when the *full* market is served by Gas Cos. [Pacific Lighting] alone that the only solution is to have that portion of the market served by a full cost of service to the electric power plants. This is what Gulf Pacific does, * * * but avoid[s] the loss incurred by sale of excessive volumes of interruptible gas." [Emphasis added.] The conclusion is inescapable. Even with Gulf Pacific using a portion of Pacific Lighting's interruptible market, there is more than enough remaining to satisfy that distributor's load balancing requirements while permitting it to fully serve its firm demand.

This can be readily demonstrated. For 1970 the firm supply from the California producers, Transwestern, and El Paso will be 874 M^3cf, which contracts permit swing down to 822 M^3cf. Less the firm market of 493 M^3cf of Pacific Lighting's, the amount of gas that must be disposed of is 329 M^3cf. This is met up to 41 M^3cf by storage injections, leaving the required interruptible market of 288 M^3cf. This compares to the interruptible market available to Pacific Lighting with Gulf Pacific in operation of 397 M^3cf. The conclusion from this is simply that Pacific Lighting will have more than adequate interruptible load remaining to balance with its firm annual requirements. In fact, the interruptible market remaining will exceed Pacific Lighting's firm supply by 109 M^3cf.

The requirements stated herein represent the best estimate from the record, and it is clear there is a large and rapidly growing market in southern California which will require substantial additional volumes in the near future. Gulf Pacific can be accommodated to that market with no adverse impact on present patterns of supply, and after 1970 there will be necessity for additional volumes. The picture of supply and market over the next five years, with Gulf Pacific commencing operation in the summer of 1968, is as follows:

	1966	1967	1968	1969	1970
Total Market	1,025	1,076	1,110	1,148	1,163
Supply:					
El Paso—firm	417	417	417	417	417
El Paso—interim	50	----------	----------	----------	----------
Transwestern	233	233	233	233	233
PG&E	17	----------	----------	----------	----------
Calif. Producers	224	224	224	224	224
Gulf Pacific	----------	----------	100	253	273
Total Supply	941	874	974	1,127	1,147
(Less alternative fuels)	(21)	(22)	(23)	(22)	(21)
Curtailment	63	180	113	(1)	(5)
Percent Curtailment	6	16	10	0	0

The above figures establish the pattern of deliveries which were recommended by the CPUC, although their proposal would not have permitted Transwestern all its requested volumes at a firm load. If the division is made as recommended by the CPUC of permanently certificated volumes to Transwestern of only 196 M^{3}cf, it can be seen there would remain even more flexibility in the market for interruptible sales. Available supply from PG&E and other sources would permit full accommodation in 1966–68, prior to Gulf Pacific commencing operations.

The additional supply above the requirements for 1969 and 1970 could be used to develop an additional increment of storage to meet the peak day requirements for 1970.

These figures establish that Gulf Pacific can be accommodated fully to the market, and that all the volumes proposed by Transwestern could be utilized. Furthermore, the interruptible market would still be available to Pacific Lighting in sufficient volumes. The interruptible market would receive supplies in accordance with the traditional level of service that prevailed up to 1965. Finally, Pacific Lighting would still be in a position to make interruptible sales to Edison and Department, for neither utility contemplates receiving sufficient volumes from Gulf Pacific so as not to need further fuel supplies. Thus, for all these reasons, the market justifies the proposal of the CPUC, in terms both of demand and the lack of an adverse impact on Pacific Lighting.

The majority's refusal to satisfy this market at traditional levels is thoroughly inexplicable. The results are easily predictable. California will receive less gas at higher cost, and the amounts of pollutants emitted will increase in both percentages and in absolute amounts. The fuel oil suppliers will be protected, and the impetus will be placed upon Edison and Department to develop alternative sources of generation at earlier dates and higher prices. Of course, the applications which would satisfy the market most nearly cannot be certificated without a showing that the rates for that service would be reasonable. As is developed in the comparative economics discussion those rates are lower at the higher level of service demanded for southern California.

The majority without having made a market finding proposes to supply the future needs of the southern California market with energy received from the "exotic" sources of generation: remote mine-mouth coal and nuclear, in addition to the hitherto untried Northwest-Southwest Intertie. The fundamental error committed by the majority in this respect is that it places too much reliance on the ability of these highly speculative sources of energy to effectively and economically compete with traditional sources upon the scheduled conclusion of TSP in 1968.

I would point out that plants for remote mine-mouth coal generation are planned for various areas in the states of Nevada, Utah, Arizona and New Mexico. Inasmuch as vast quantities of water are required to operate these plants, their planners have run into numerous problems with regard to securing sufficient water rights in the arid to semi-arid regions where the deposits proposed for development are located. This is not to say that these plants will not be a factor to be reckoned with by conventional power plants in the years after 1970. However, it is premature at this time to think that the many problems with which they are fraught can be solved in time for them to materially affect the southern California market until well into the 70's.

Similarly is the situation with nuclear generation. The presently existing nuclear plants are more experimental than competitive, however, new plants are being planned which will supposedly be able to compete with traditional fuels, but to date none of these plants exists, so whether they actually will be competitive remains to be seen. In addition to a certain amount of public opposition which construction of nuclear plants has aroused in California, the majority would do well to heed the more cautious approach towards this type of generation expressed in the *National Power Survey* and by various experts in power generation. The *National Power Survey* predicts an increased use of nuclear energy, particularly for southern California, but it does not conceive nuclear energy will replace any existing plants there nor that it will provide more than 17 percent of requirements for 1980. The majority's optimism is perhaps best rejected by the following conclusions expressed by Philip Sporn:

> To those concerned primarily with nuclear power, I urge dissatisfaction with the manner in which it has advanced its competitive position over the past year or more. I have been dismayed to sense indications that in certain quarters the growing attitude is that atomic power "has it made." My judgment is that nuclear power will have it made only when such attitudes are non-existent; when favored price treatment of nuclear plants and components is fully eliminated; and when people begin to look at projects such as Oyster Creek not as ancient history, but as large, new units, the initial operation of which will not occur for some time and the economic performance of which cannot be fully verified until the next decade. These are the questions that necessitate a 2¢/MBtu band of uncertainty around my cost estimates and these are the factors which will preclude our developing a clearly focussed picture until the 1970's. *Nuclear Power Economics* (March 17, 1966).

The majority also relies upon a third source of energy, the intertie, which involves exchanges of power with Bonneville in 1971 and Canadian Treaty Power in 1968, utilizing the North-South intertie. This intertie, while theoretically practicable, involves transmission of power at levels and by methods which have never been in actual operation. Inevitably, difficulties can be forecast, both in timing and cost. The Northwest Preference clause, contained in the enacting legislation, poses additional speculative uncertainties as to the amounts of this power available for areas outside the Northwest during the latter part of the market period with which we are concerned.

The majority has chosen to rely on these new sources of energy, for the long-range market in southern California. They also maintain that the present gas and oil-fired generating units can be converted from base load to peaking plants when the new electrical energy sources arrive on the scene. This unrealistic position fails to consider the investment exceeding $1 billion dollars which these traditional plants represent. To be sure, in the future some of these plants may warrant conversion for peaking purposes, but this stage is well down the road. The majority is apparently willing to risk depriving the consumers of southern California a level of service comparable to that which they have had in the past.

I cannot disregard the findings of the Examiner to the effect that, "This additional power [nuclear and coal], if it can be obtained, will not *replace* but *supplement* the generating plants in the Los Angeles Basin." [Emphasis added] (Examiner's Opinion, *infra* at 300). In my opinion, the majority has taken a recklessly optimistic position with regard to these new sources of electric energy and an equally pessimistic view as to the future of gas-fired plants in southern California to the ultimate derogation of the consumer.

III. COMPARATIVE ECONOMICS

The above market is determinative of the supply which this Commission should certificate in this proceeding. It is the market which must be met to continue present patterns of gas utilization in southern California as requested by CPUC.

Once the market is established, our consideration turns to that project or projects which would most adequately meet the projected requirements at the least cost to the consumer. It must be admitted that the comparative merits are difficult to determine, for Gulf Pacific would provide far more adequate supply, and the additional cost to El Paso cannot be accurately measured. Furthermore, the additional costs of transporting the gas from the California border to the load center are difficult to measure. Finally, the impact of the field prices on overall rates to consumers is not readily determinable for a twenty-year period. Nevertheless, comparison can be made for 1970 and 1972 on these points so as to provide that examination of the comparative merits which the law requires.

1. PRELIMINARY CONSIDERATIONS

In his decision the examiner analyzed at length the comparative merits of the pipeline applicants here before us, and, with the exception of supply, he concluded each met the preliminary requirements of the public interest as set forth in our regulations. It appears that, due to the Commission's recent relaxation of its deliverability standard, none of the applicants can be disqualified for failure to meet the threshhold requirements. Nevertheless, the examiner's determination of the reserves available to each applicant indicated clearly that neither El Paso nor Transwestern has adequate supplies as compared to the reserves committed to the Gulf Pacific proposal. The majority does not make this comparison, leaving the implication that Gulf Pacific presents no more than a supply equating to that of the other two. This is fundamentally unfair because it is clear that the Katy and Pledger reserves present one of the best natural gas supplies to be presented to this Commission. In order that this fact not be overlooked, the reserve posture of Gulf Pacific must be set forth.

In the case of Gulf Pacific's reserves, the company's witness, Mr. Born, using the volumetric method, testified that the reserves available to the Gulf Pacific project in the Katy and Pledger Fields as of July 1, 1965, amount to 6.01 trillion cubic feet (tcf) at 14.73 psia, providing a deliverability of 16 years at a 95 percent load factor. In addition, Gulf Pacific emphasized that its supplier, Humble, has warranted to supply any additional gas which may be needed above the reserves already dedicated to meet the full requirements of Edison and Department under their purchase contracts upon the same terms and conditions.

In opposition to Gulf Pacific's claim of adequate reserves El Paso's witness found reserves of only 3.91 tcf available to Gulf Pacific with a deliverability-life of 8.7 years. The Staff witness found Gulf Pacific's estimates reasonable, and the examiner agreed.

The differences in the estimates depend on three factors: (1) the number of acre-feet of producing sand in the Katy Field, (2) the percent of pore space occupied by connate water and not gas, and (3) the percentage of the gas-in-place that can be produced expressed as a recovery factor. On the number of acre-feet there was a difference in reading the logs of the wells drilled; and on this Staff reviewed the well logs and took no issue with Gulf Pacific's witness. Part of the difference was also due to El Paso's exclusion of the wedge sloped border of the Katy Field. El Paso considers this criticism of its computation inconsequential but Staff, it would seem justifiably, thinks the wedge area is of considerable importance.

On connate or interstitial water Gulf Pacific's witness found a weighted average 21.7 percent saturation in the Katy Field in contrast to El Paso's claim of 30 percent. Gulf Pacific used the capillary pressure method, which it claims is one of the most reliable, to plot graphically permeability against water saturation for 22 core samples taken from two wells, and it applied the average result to some 4,464 sample measurements furnished by Humble. On the other hand El Paso's data was obtained from electric log calculations from ten wells scattered throughout the field. El Paso says its 30 percent figure is consistent with data obtained from nearby fields and with scientific publications cited by it. The staff comments that the data relied upon by Gulf Pacific was far more extensive than that upon which El Paso made its determination. Gulf Pacific's method should be accepted. While log analysis is an accepted technique, data obtained from cores is that against which the log data is checked.

Gulf Pacific assumed that 85 percent of the gas would be recovered, while El Paso used a recovery factor of only 70 percent. El Paso's witness admitted that where there was "water drive" a 70 percent recovery was equivalent to 2,000 pounds abandonment pressure while if he had used an abandonment pressure of 1,000 pounds, a recovery factor of 89 percent would result. What El Paso had done, according to Gulf Pacific, was to assume a very strong "water drive" in the Katy Field by which the pressure would remain high as the gas was withdrawn. This apparently is not the condition in the Katy Field, and the abandonment pressures assumed by El Paso appear unreasonably high. The record thus supports the examiner in finding that the estimate of reserves and deliverability made by Gulf Pacific was reasonable. A sixteen-year deliverability is clearly sufficient and further consideration can be given to Humble's warranty for the remaining years of the contract. El Paso's estimate is apparently based on theoretical assumptions and an apparent lack of information. Gulf Pacific's estimate of reserves is reasonable, and its estimate of deliverability is adequate and should be accepted.

On the other hand the majority must struggle at length to bring El Paso and Transwestern up to the standard generally prescribed by the Regulations. While the majority's estimates should be accepted, certain important deficiencies require emphasis. For El Paso the majority alludes to deliverability of 11–12 years. It is clear that, when careful consideration is given each of the downward adjustments required, the deliverability for the expanded proposal is eleven years. This necessarily results from the many uncertainties which circumscribe the reserves presently available to El Paso. Its supply from Permian is sixty percent casinghead, and deliverability depends upon the allowable oil-production prescribed by the Texas Railroad Commission. The reserves in San Juan are in an area of limited permeability, and the rate of production is accordingly seriously curtailed. The impact of the divestiture proceedings cannot be accurately determined at this time, but it is clear that some five percent of El Paso's dedicated reserves will be lost to Pacific Northwest. While it is generally accepted that the Delaware Basin will provide large supplies in the future, the additional expenses of developing that area will clearly increase. The Commission's recent approval of a certificate to connect reserves in that area was at an additional cost of $10 million to El Paso, yet the reserves attached were less than one year's supply for the company's vast system. Furthermore, that field is still largely undeveloped, and its potential is difficult to measure. El Paso only recently found itself in a very tight supply situation, and it was willing to attempt the Rock Springs project in order to bolster its supply, yet that project involved gas costs of over 37 cents per Mcf. It is fortunate that ill-fated attempt did not succeed. El Paso also is attempting to increase permeability in San Juan by the use of nuclear explosions; but the expense of this is great, and the results are not predictable at this time. El Paso is clearly aware of the deficiencies in its general supply area, and it has sought to attach reserves and supply in the Texas Gulf Coast region, much as Gulf Pacific proposes herein. In its Lo-Vaca project El Paso would have extended a line into Texas Railroad District No. 4. The cost of those facilities would have been greater than the costs proposed herein by Gulf Pacific. As a result, purchased gas cost would have been extremely out-of-line. While El Paso abandoned that project following Supreme Court action adverse to it, it prosecuted the proposal for over six years. It was permitted to withdraw the project on the allegation that it had adequate reserves in the Delaware Basin. Yet El Paso continues to have a very active exploration and development program in the Texas Gulf region, with expenditures in District #4 of over two million dollars, and with leases there of almost 50,000 acres. This is almost one-half of El Paso's exploration program for 1964, yet it is entirely off-system. While these reserves have some utility for transfers with Natural, it appears likely that El Paso will find it necessary in the near future to extend its facilities into that area. Finally, since El Paso does virtually all its gathering, extensive additional resources must be invested, and the throughput costs of those small lines is over six times that for the line Gulf Pacific will provide.

Furthermore, the majority's findings as to Transwestern must also be placed in a comparative perspective. That pipeline has reserves dedicated to it of approximately eight years, although the warranty from Gulf Oil cannot be overlooked. While it has an active procurement program, it has been hampered in recent years by take-or-pay problems. It can reasonably be concluded Transwestern also conforms to the flexible 12-year standard, but again it must be emphasized that it falls far short of the 20-year supply guaranteed by Humble. Since Transwestern and El Paso are being considered together, it can be further emphasized that the deliverability evidenced by both on this record is less than ten years, in comparison to Gulf Pacific's deliverability of 20 years. This Commission is called upon to compare a twenty-year deliverability with a ten-year deliverability. There is no certain way to show what it will cost El Paso and Transwestern to attach reserves sufficient to deliver gas equating to the southern California market for an additional ten years. If the majority were to consider trends over the last two decades, however, the conclusion would be inescapable that the project they favor will necessarily result in higher costs to consumers than the Gulf Pacific proposal. Even if we disallow any wellhead price increases over the next twenty years, and postulate an increase in gathering, transmission, and distribution costs which equates to the national average increase in costs of doing business, it is clear that their shortsighted project will cost more. This is made clear when consideration is given to the comparative cost of transmission which is not adequately presented on this record. Gulf Pacific will deliver gas into Los Angeles. El Paso and Transwestern halt at the California border. In order that the supplies of the latter two systems be delivered to a comparable load center, it is necessary by Pacific Lighting's own admission for additional costs to be incurred of approximately 35 million dollars. For El Paso to do it, expenditure of still another $30 million would be necessary. When this cost is added to the El Paso-Transwestern expanded project it cannot be ignored that the total cost of facilities for that alternative will be greater than that proposed by Gulf Pacific.

2. FIELD PRICE

Considerable attention in the record has been accorded to the propriety of the field price of the Humble gas at 18.5 cents per Mcf at 14.65 psia (18.6 cents at 14.73 psia) as it is 1.5 cents higher than the 17 cents per Mcf at 14.65 psia in-line price for jurisdictional sales in Texas Railroad Commission District No. 3.

Since, however, the Humble sale would be exempt from FPC jurisdiction under the provisions of Section 1(b) of the Natural Gas Act as being a direct industrial, and in view of the many premium qualities, I would certificate the Gulf Pacific project conditioned upon the producer contract containing provisions for an 18.5 cents per Mcf initial field price with escalations every four years, but not to exceed the triggering level (presently 19 cents per Mcf) or a future area rate set higher than 19 cents. In the event the area price were increased, the contract should allow escalation to the new price. Such a condition would preclude any possible adverse effect on jurisdictional sales as a result of triggering.

The majority maintains that there is no indication that the producers would accept conditioning requirements, however, it was stated specifically in the oral argument by producer's counsel that they would not reject summarily a conditioning proposal, but would simply have to reconsider their position. Under the circumstances, this was a reasonable position to take. However, to refuse further consideration of the project on the basis that the parties who proposed it did not immediately seize at the opportunity of changing their initial offer when a change was suggested to counsel in oral argument, is indeed unreasonable.

By rejecting the possibility of conditioning the producer's contract the majority apparently rejects the touchstone of area pricing, *i.e.*, a stable price for a term of years. This is an unreasonable consideration upon which to base a rejection of the entire project and undoubtedly is attributable to the majority's apprehension of not having jurisdiction over direct sales, even though the Congress of the United States has seen fit to deny us that jurisdiction. I would submit, however, that it is not the proper concern of this Commission to deny a project such as Gulf Pacific's which would enure to the ultimate benefit of the consumers of California—a project which the consumers are on record as desiring on the basis, express or inferred, that this Commission does not have jurisdiction over the direct sale.

Furthermore, it is perfectly clear that the consumers of California will, under any project certificated, have the protection and benefits of regulation as prescribed by the CPUC, through its regulation of electric rates. Consequently, whether regulation is under the jurisdiction of the Federal Power Commission, CPUC, or a dovetailing of the two, the ultimate consumer will be completely protected. Thus, no argument can be heard that this is an "unregulated" sale.

It is also argued that certification of Gulf Pacific would induce producers in the Texas Gulf Coast area to "* * * hold their gas off the regulated interstate market with the objective of packaging it for sale at higher prices to similar direct buyers." The proponents of this argument are apparently unmindful of the problems involved in putting together such a project as that proposed by Gulf Pacific. Finding a market is one thing, but to amass sufficient reserves to warrant the construction of a pipeline to transport the gas to the market is quite another. It would be an almost impossible task for the average independent producer, or even a very large one, to attach reserves comparable to those in the Katy and Pledger Fields. Consequently, I do not share the majority's concern that certification of Gulf Pacific would lead to an exodus from the jurisdictional interstate market by independent producers.

There are numerous services and qualities which justify the initial field price. An example is to be found in the fact that Humble will perform extensive gathering which will allow Gulf Pacific to take delivery of the gas at two central points.

In addition, Gulf Pacific will not have to install any compression[2] and the gas will be completely dehydrated upon delivery to the pipeline.

In the Permian Area Rate proceeding full consideration was given to just and reasonable pricing policies, and it was concluded there should be a premium for gas of above the ordinary Btu content. We further indicated allowances might be forthcoming for other services, and on rehearing we granted full consideration of the necessity for a higher price to cover deeper drilling in the same acreage. (*Area Rate Proceeding, supra*). In *Panhandle Eastern Pipe Line Co.*, 27 FPC 35 (1962) Opinion No. 350, we were confronted with extensive gathering, though not to the extent contemplated here, and an additional allowance was deemed proper. Similarly, in *Socony Mobil Oil Co., Inc.*, 27 FPC 347 (1962, Docket No. G–13780, a gathering premium was allowed. Finally, we have stated that "a consistent application of the in-line comparison requires that we give consideration at the stage of certification to any additional feature of the proposed sale which is of objectively measurable value." *Medina Gathering Corp.*, 30 FPC 227, 232 (1963), Opinion No. 397. It should further be noted that El Paso's total cost for gas is slightly above 18.0 cents in the event its own high-cost production is included in its gas cost. The extensive services of Humble entitle it to similar increments. In any event, it is clear that there is complete justification for the field price as proposed.

Insofar as direct producer sales are concerned, this Commission would not approve direct producer sales in the *Transco* case (*Transcontinental Gas Pipe Line Corporation*, Docket No. G–13143, *et al.*, 21 FPC 138 [1959]), where the pipeline proposed to transport gas to New York that had been purchased by Consolidated Edison in the field, or in *El Paso* (*El Paso Natural Gas Co.*, Docket No. G–12580, 22 FPC 900 [1959], Opinion No. 333), where Edison sought direct sales from El Paso, with Pacific Lighting providing the necessary transportation services. There were dangers in both these proposals, for in one, the field price would have clearly triggered price inflations, and in the second, objections of the CPUC to cost allocation problems were persuasive. In the instant proceeding, however, the majority cannot find the field prices unduly high in comparison to service and warranty. As to approving other like sales, Gulf Pacific emphasizes that, before any similar project is approved, it must receive a certificate under Section 7. This is a valid position. Since Gulf Pacific is fully justifiable in terms of cost to the consumer, then it should not be denied merely because other unfavorable projects might seek to accomplish a similar result.

3. COST TO CONSUMERS

Under the Natural Gas Act, it is the duty of this Commission to authorize natural gas service at the lowest reasonable cost to consumers consistent with sufficient supply. The majority's cost comparison shows that the proposal they are authorizing is more expensive to the consumer than Gulf Pacific. This comparison was arrived at without any consideration of the additional supplies which will be required and the additional expenses for facilities to deliver those supplies. The TSP is unquestionably the most expensive proposal before the Commission.

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[2] Some indication of the additional value to a pipeline of gas which does not require compression may be had from the record in the Permian Basin area rate proceeding. (*Area Rate Proceeding*, 34 FPC 159, *Opinion No. 468*, Docket No. AR61–1, *et al.*, August 1965. The Presiding Examiner's Initial Decision (p. 370) : "* * * the most recent pricing patterns show that under contracts for the sale of old residue gas, 99 percent of the one-stage residue gas is selling at a differential of at least 2.5¢ below 95 percent of the three-stage gas; and that some 99 percent of the two-stage gas sells for at least 2¢ below 95 percent of the three-stage gas * * *"

a. *Incremental Costs*

Before this conclusion can be developed the majority's position must be thoroughly considered. They rely to a great extent on incremental costs, which involve essentially a measure of the additional facilities required to provide adequate service. Their conclusion is that, for El Paso, Transwestern and Pacific Lighting to provide adequate gas to Los Angeles, the additional cost would amount to approximately 27 cents per Mcf. They compare this to Gulf Pacific's possible rate of 30.35 cents, and reject it as being too expensive. This is fundamentally unfair for the rate to be paid by the consumer will not be 24.5 cents, but a figure which is much higher. Yet even when consideration is limited to allocation of resources, for southern California to receive adequate service for the foreseeable future far greater facilities and expenditures will likely be incurred. The majority's figure does not attempt to compare the additional costs of attaching supplies adequate for the future. Surely they cannot expect this Commission to permit rates to be set on an incremental basis, yet the rates for the certificated facilities would still be far higher. The majority relies upon the isolated statement in the *Rock Springs*, 30 FPC 77, proceedings that emphasis would be given to incremental costs. We did not say this was to be the sole standard, and certainly consideration must be given to rolled-in costs. As we stated in *Rock Springs*, "savings are shown even on the basis of rolled-in costs." 30 FPC at p. 85. Since the rolled-in rates for adequate service are considerably lower, that rate comparison should be made and should be accorded considerable weight.

Furthermore, when due consideration is given the lack of comparability between the low incremental costs of El Paso-Transwestern on the record before us, and the long-term assured supply available under Gulf Pacific-Transwestern, it is apparent that El Paso, with Transwestern, is deficient, as determined by the reserve analysis, by almost ten years. We must therefore compare ten year's deliverability with the twenty years available from Gulf Pacific. It cannot be determined with precision what additional investments will be required by El Paso. Nevertheless, it is a certainty those investments will have to be made, and clearly the resources required would be well above those for Gulf Pacific.

With regard to the rolled-in rates it should also be pointed out that there is no stability to the rates proposed on this record; however, the rates to be charged by Gulf Pacific would be virtually stable. Department states it considered the potential impact of inflation, and concluded that, on a conservative basis, costs will rise over the twenty-year period by at least one-and-one-half percent per year. Furthermore, since the rise in natural gas prices at the burner tip has been accounted for 80 percent by increases in transmission and distribution costs, and only 20 percent by wellhead increases, even if the latter prices remain stable, which is unlikely since there will be a gradual rise to the new gas-well gas rate in Permian alone, additional expenses for transmission and distribution will likely add significantly to the investments proposed in this proceeding. Even if we assume El Paso's costs would go down, it would be required they decrease by almost two cents an Mcf to equate to the stable, noninflationary price to be charged by Gulf Pacific. For it must be emphasized that Gulf Pacific's rates, based upon a six percent return on net investment, will not rise, but will decrease virtually concomitant with increases at the tailgate for the producers' sales. To the extent Gulf Pacific is subject to increases for operation and maintenance so also is El Paso for a much larger system, which already makes sales of over 1.3 trillion cubic feet a year, requiring constant additions to supply. Proposed safety legislation could add even greater costs to the El Paso system, to a far lesser degree for Transwestern, and virtually none for Gulf Pacific. To conclude, Gulf Pacific will provide virtually the same rate for 20 years, and all its facilities are before us now. El Paso will require extensive additional investment to provide service comparable with Gulf Pacific. Even the incremental cost argument of the majority, when properly considered on a comparative basis, is without foundation.

When due consideration is given the long-term allocation of this nation's resource, Gulf Pacific is preferable for the foreseeable needs of southern California. El Paso's cheap expandability, on the other hand, can readily be utilized in less than five years, and even for the period 1966–1968, when increasing deficiencies in the market will require interim supply. El Paso refuses to offer what Gulf Pacific will provide. Comparatively, the reservoirs available to Gulf Pacific in one of the major producing regions of the nation militates strongly in its favor. El Paso's present deficiencies, in a producing area which cannot provide the same long-term supply, are not to be preferred.

The costs in terms of resources cannot be considered apart from the resulting rates. The costs must be translated into the price to be paid by consumers, for the Natural Gas Act requires this Commission provide the "lowest reasonable rates" to consumers.

b. *The Public Interest in the Lowest Possible Rates*

The majority's treatment of rolled-in costs compares different programs at different levels of service for different years. With certain adjustments to make the applicants comparable it can reasonably be predicted that the following rates will be charged to Edison and Department:

	Cents
For 1970:	
1. By Gulf Pacific	33.96
2. By Pacific Lighting	34.84
For 1972:	
1. By Gulf Pacific	33.98
2. By Pacific Lighting	34.28

Over a twenty-year period the average rate by Gulf Pacific to the utilities would be 31.37 cents, and in the last year it would be 31.74 cents, well below present rates for natural gas or any alternative fuels. This is the benefit which would accrue to over eight million consumers of electricity. The comparison is completed when the comparative rates to natural gas consumers, virtually the same persons, are set forth as follows:

	Cents
For 1970:	
1. With Gulf Pacific	33.46
2. Without Gulf Pacific	34.81
For 1972:	
1. With Gulf Pacific	34.11
2. Without Gulf Pacific	34.28

These latter figures represent the weighted average cost of gas to southern California, and they can readily be computed from the many exhibits on the record. For Gulf Pacific in 1970, this breaks down as follows: For El Paso the rate at the border would be 30.08 cents, as at present, with reductions of one cent for Permian area rate decreases and adjusting for pressure and Btu.

The weighted average cost of natural gas to southern California for 1970, with Gulf Pacific in operation, would be 33.46 cents per Mcf. This is computed as follows:

1. The El Paso rate is presently 30.08 cents per Mcf at 14.9 psia, or 29.74 cents at 14.73 psia. This will be reduced at least one cent, according to El Paso for rate reductions from *Permian, supra*, and, adjusting that rate from 1083 Btu's to 1080 Btu's, the final El Paso rate for its permanently certificated volumes of 418 M^{3}cf is 28.66 cents.

2. The Transwestern rate will be reduced to 32.70 cents, with further reductions of 1.60 cents for Permian area rate reductions, and, adjusting from 1051 Btu's to 1080 Btu's, the final rate is 31.96 cents.

3. The California producers' rate will be 30.44 cents, derived from the weighted average rate at the border for the out-of-state gas.

4. The Gulf Pacific rate is 33.07 cents, based on Exhibit 324, with the pipeline receiving a six percent return on net rate base, and this figure is adjusted downward by 0.29 cents to reflect revisions in the income tax laws during the pendency of the hearing. The resultant figure is adjusted to 1080 Btu's for a final figure of 33.96 cents.

5. To the cost for El Paso, Transwestern and California-produced gas must be added the costs to Pacific Lighting of moving that gas from the points of purchases into the Los Angeles load center. This figure is 3.31 cents, derived from Pacific Lighting Exhibits 393 and 761.

6. This produces the final rate to be charged by Pacific Lighting at the load center of 33.28 cents.

7. Averaging this figure and volumes of 851 M^{3}cf with Gulf Pacific's volumes of 273 M^{3}cf at 33.96 cents, the resultant figure is 33.44 cents, which is the weighted average price of all natural gas to the California consumer in southern California.

If Gulf Pacific is not certificated, it would then cost the consumer an average of 34.81 cents per Mcf to obtain comparable service from Pacific Lighting. This is derived as follows:

(a) The El Paso rate of 27.67 cents is its proposed rate for the maximum expansion, at 28.75 cents, reduced by one cent for the Permian rate reductions, and adjusted from 1083 to 1080 Btu's.

(b) Additional volumes of 60 M^{3}cf are assumed to come from El Paso at the same rate.

(c) The Transwestern rate is the same as with Gulf Pacific, above, and is 31.96 cents.

(d) The California producers are assumed to be able to supply an additional 19 M^{3}cf, and the rate, based upon the average for Transwestern and El Paso, is 29.42 cents.

(e) The weighted average price at the point of delivery for the above gas is 28.86 cents per Mcf.

(f) The costs to Pacific Lighting of delivering the gas into the Los Angeles load center are 5.95 cents, derived from Exhibits 393 and 761.

(g) Adding Pacific Lighting's costs to the cost of its gas, the weighted average price of natural gas to the California consumer at the Los Angeles load center would be 34.81 cents. Since this Commission should maintain present patterns of gas supply, the conclusion is inescapable, as Pacific Lighting itself emphasizes, that its service will cost more.

Since the cost of gas to consumers will be virtually the same, albeit lower with Gulf Pacific by a few mills, it can then be emphasized that the cost to Edison and Department will be considerably lower, by almost two cents. It should also be emphasized that, with the comparative alternative of Gulf Pacific, there is every likelihood the lower rate would be achieved. This would likely not occur without Gulf Pacific for the potentially low rates from Pacific Lighting would be free to fluctuate as they have in the past up to eight cents above the border rates. Finally, it cannot be ignored that the Pacific Lighting costs will gradually increase, as they have for the past 20 years. This is patently clear on the present record, for it proposes the level that would be optimum to it, not to the consumers. The majority's shortsighted solution is only to be tolerated in the event there is to be a drastic decline in natural gas service to southern California.

c. *Impact on Pacific Lighting*

As all members of this Commission emphasized in *Oklahoma Illinois, supra*, we must consider the possibility of an adverse effect upon consumers of the existing supplier. In the present proceeding it is clear there would be none. This is so largely because similar rate reductions would be made available to all utility consumers, regardless of which project or projects is certificated. Thus, if Gulf Pacific is authorized Edison and Department will be able to reduce their electric fuel costs to consumers by over three cents per Mcf of gas. Since Transwestern should also be certificated, major rate reductions could be realized. If the El Paso-Transwestern expanded proposal is approved, then rate reductions of some two cents would result with an additional one cent overall reduction possible under the Permian decision. The Permian rate reduction will, of course, be realized by all gas consumers regardless of the project approved. On the other hand, the additional costs to Pacific Lighting of making the necessary service available will require an overall increase of almost two cents. For this reason, Pacific Lighting presents the more expensive proposal. On the predictions we can presently make, the result is inescapable that after five years the overall cost of gas would be virtually identical under either proposal. The reductions under the Gulf Pacific-Transwestern project would be realized immediately and for the long-term in electric fuel costs, and, since the consumer utilizes both services, he will realize the maximum benefit under Gulf Pacific-Transwestern. The impact on consumers is adverse without Gulf Pacific.

The adverse impact alleged by Pacific Lighting is largely an argument it would lose its load balancing abilities. This is misplaced for the interruptible market available to it once Gulf Pacific is certificated will be more than adequate to meet its peak firm responsibility, and to provide more than adequate interruptible service. This has been demonstrated previously. The firm requirements are offset by the large volume of interruptible sales remaining.

The majority takes the position that impact cannot be determined, but they infer at various points in their opinion it would be adverse. It can be determined and it will not be adverse. What it does establish is that either procedure has the result of lowering gas costs to the consumer to approximately the same level overall. Yet it also establishes that the cost to the consumer of electricity will be far less with Gulf Pacific. Finally, it can be pointed out that, Gulf Pacific would not commence operations until 1968, which would provide more than ample time for Pacific Lighting to adjust its operations accordingly, and to increase its interruptible sales.

In the circumstance of lower rates to consumers with Gulf Pacific, the majority takes the tenuous position that El Paso's east-of-California customers will not get the benefits of El Paso's increased deliveries. For this group of customers, since the sales there are of far smaller volumes than those available to California consumers, there is no equating the greater benefits of larger rate reductions to southern California. Clearly the balancing of the alternative rate reductions preponderates with Los Angeles and Edison. Furthermore, if a project can be denied because a small group of customers of a competitor would be denied rate reductions with the new supplier, then no existing pipeline need fear that a competitor will enter its market. This clearly was not intended as evidenced in the House Report on the 1942 Amendments to Section 7 of the Natural Gas Act. Subsection (g) is intended "to make clear that the Commission will not be deprived of the authority, in the proper case, to issue certificates for extensions to serve an area already being serviced by another natural gas company." House Report No. 1290, 77th Cong., 1st Sess. (1941), at 4. In addition, we recently stated, that "We do not minimize the rate reductions which will enure to the benefit of the (present supplier's) other customers. However, this factor alone cannot justify the grant of an application which is clearly inferior to other competitive proposals." *Transcontinental Gas Pipe Line Corp.*, Opinion No. 493 (issued June 8, 1966), 35 FPC 917 at 922.

d. *Additional Cost Considerations*

The majority points to a one cent reduction in El Paso's costs as a result of the Permian area rate decision. It should be pointed out that this reduction will come about regardless of the outcome of the present proceedings, and further, its effects will soon be overcome because of El Paso's rising gas costs. At present, El Paso's cost of purchased gas is below the new gas price for Permian and most of its supply is from old contracts which are rapidly depleting. Therefore, they must attach tremendous new reserves for a sufficient supply to offset their declining old gas reserves in order to provide for presently certificated and new markets. These new reserves will be at the 16.5 cents rate and will necessarily raise El Paso's average cost of purchased gas. It is, therefore, inescapable that El Paso's rates will continue to rise as new high cost reserves are attached.

The majority maintains that El Paso will be able to absorb the facilities for new reserve acquisitions at the rate of $40,000,000 annually as a result of reduced depreciation on existing rate base. At the same time, they forecast a pessimistic outlook for gas in southern California, thereby inferring that El Paso's rate base will either remain stable or decline, due to the lack of need in the future for mainline facilities. This reasoning is in conflict with the majority's philosophy of liberalized depreciation which requires an ever expanding rate base for the benefits to flow uniformly. (See, *Alabama-Tennessee* Opinion No. 417, 31 FPC 208 (1964)).

The majority states that the grant of the TSP project would result in a $165,000,000 reduction to El Paso's customers which would be denied them if Gulf Pacific were certificated. This is completely untrue. As I have stated heretofore, the El Paso project would still be necessary after 1971 if Gulf Pacific were certificated. This means that by 1974, the sixth year of Gulf Pacific, that the same ¾¢ rate reduction now proposed will then be forthcoming. The effect of this is only to delay six years this reduction, and over the 20 year period, stated by the majority, would still result in reductions to El Paso's customers of $115,626,000. Further, the fact that El Paso would not have to rely on their $40,000,000 annual depreciation to construct facilities to attach additional gas means that its rates could be reduced approximately $5,000,000 a year until such time as new supplies are necessary. With El Paso's presently certificated supplies and the market which would be available after certification of Gulf Pacific, El Paso would not have to attach any reserves for at least 14 years. This results in additional reductions of $68,600,000 for a total reduction over the 20-year period of $184,226,000. It is, therefore, apparent that all of El Paso's customers both within and without California would receive substantially more benefit from the certification of Gulf Pacific than would be derived under the majority's action today.

Thus, the majority's reliance on possible rate reductions as a result of the Permian area rate decision, flow-through of liberalized depreciation, and possible future rate reductions is without merit insofar as cost comparison with Gulf Pacific, since regardless of whether Gulf Pacific is certificated or not, these benefits will still be passed on to the ultimate consumer. Reductions from these sources cannot be considered in any valid cost comparison.

4. *A Tailored Supply for Southern California*

In view of the above considerations, Gulf Pacific is preferable on the basis of economic benefits. Nevertheless, two important considerations have been established by the record in this proceeding. As Pacific Lighting makes clear, there will be a definite shortage of natural gas supplies to California by this coming winter unless additional facilities are certificated for deliveries this fall. It will be impossible for Gulf Pacific to meet this shortage. It will require at least one year to construct its facilities, and it can reasonably be expected there will be additional administrative delays of at least a year. As the CPUC points out, deliveries could not start before some time in 1968, and it is reasonable to assume this would not be possible before mid-1968. Therefore, although Gulf Pacific will provide excellent supplies for the twenty-year period after it commences operations, some supplies are needed now. No new supplies have been permanently certificated to California since 1959. Only the utmost efforts of present suppliers have made the present situation adequate. Thus, we are called upon in this proceeding to exercise our certificate responsibilities to meet both long-term and short-term requirements. As contemplated by our order providing for this hearing, the long-term market must be supplied, at the very least so that there will be an end to the long delays characterized by administrative proceedings. Of course, the principal purpose is to provide the necessary energy for southern California at the lowest possible cost.

But we must meet the short-term also, and the choice here is between Transwestern or El Paso. For the short term, it is clear the greater rate reductions and the lesser costs will be realized by certification of Transwestern, as recommended by the CPUC. Transwestern can provide additional supplies in less than six weeks, and, in comparison to El Paso, it involves greater volumes at lesser costs, and with greater benefits to rate payers.

The needs of southern California can be met in the most feasible manner by so proceeding. This is, as recommended by the CPUC, the preferable resolution of their fuel problems. The record fully supports their conclusion. The TSP which we have considered is not the alternative necessary to accommodate the demands of both the immediate and the long-term requirements of southern California. In order to expedite Transwestern's deliveries, their application should be severed from this proceeding.

The majority rules to the contrary. By so deciding, this Commission embarks upon many new precedents. It authorizes high cost gas supply. It relies primarily on incremental costs, thus ending all competitive proposals. It denies to consumers the benefits of inexpensive fuel. It also denies an appropriate direct sale for no valid reason. It is well established that when a project is shown to involve the lowest costs, it can nevertheless be denied for overriding considerations of public interest. The majority has not even attempted this burden of persuasion. In this case other issues include arguments as to air pollution, end use, alternative fuels and competition. These collateral issues must be examined as to whether they override the clear savings to consumers with Gulf Pacific.

IV. Collateral Considerations

This Commission cannot possibly sanction any and all proposals of the type involved here for the reason that cost considerations and price impact on wellhead sales must continue to be our primary concern under the Act. Nevertheless, where the project would provide lower rates at lower costs, and where it would not increase field prices, then this Commission should approve such proposals unless there is a clear and convincing showing of detriment to the public interest. In this proceeding the collateral benefits preponderate in Gulf Pacific's favor.

Pacific Lighting greatly emphasizes the flexibility it would provide. Yet this flexibility, while fully advantageous to it, does nothing to reduce electric costs to the consumer, requires the use of considerable additional fuel oil and supporting facilities, and provides no assurances whatsoever to Edison and Department that they will be able to meet, at the lowest possible cost, the tremendous electric market for which they have responsibility over the next decade. This emphasis on flexibility, when we have before us existing plants and unchallenged electric requirements for the future, can mean only that increased costs will result to electric consumers while gas consumers will receive, at best, only temporary rate advantages. Furthermore, it overlooks the inherent flexibility in the Gulf Pacific proposal as to rates of take—down to 85 percent or over 140,000 Mcf per day, as compared to El Paso and Transwestern of 92 percent. Also, the necessity for flexibility must be posited upon a cassandric view of the future for natural gas, yet all reasonable predictions indicate a strong continually increasing demand. Even assuming radical change, the companies here involved would not be unamenable to non-injurious contract renegotiations subject, of course, to this Commission's approval. Meanwhile, as Edison has repeatedly emphasized, it will continue to seek its own supplies as are necessary for meeting its responsibilities to the public, with the continuing delay of the long-term resolution of southern California's energy requirements. Fully aware of the local problems confronting the electric utilities, the CPUC supports Edison and Los Angeles in these efforts.

It is in this background of electric utilities' requirements that we consider the policy considerations posed.

1. AIR POLLUTION

Fundamentally, I agree with the factual statement of the air pollution problem as set forth in the majority opinion. However, further comment is necessary in order that my position will be clearly understood and differentiated from theirs.

It is undeniable that Los Angeles has a severe air pollution problem. The dispute arises as to the degree burning fuel oil in steam generating plants contributes to this problem. Along these lines I am impressed with the evidence presented by the Department of Health, Education, and Welfare, U.S. Public Health Service, Los Angeles County Physicians, Los Angeles County Board of Supervisors, Los Angeles APCD, and the Los Angeles County Medical Association, in favor of the Gulf Pacific project and will comment later on some of their statements. It is significant, I feel, that these agencies and individuals are primarily interested in protecting the health of the people of Los Angeles and the nation as opposed to trying to sell either gas or fuel oil.

a. *Smog*

Insofar as smog is concerned, the majority correctly points out that automobiles are the primary source of hydrocarbons as well as 50 percent of the total nitrogen oxides, both of which go into the chemical makeup of smog. They did not, however, give proper consideration to the reductions in nitrogen oxides which would be affected through the substitution of natural gas for fuel oil. The present power plants in the Los Angeles Basin emit daily averages of between 175 and 240 tons of nitrogen oxides into the atmosphere. This amounts to about 35 percent of the nitrogen oxides contributed by automobiles. Since more than 100 percent more nitrogen dioxide is produced by the combustion of fuel oil as opposed to an equal quantity of natural gas, it logically follows that the substitution of natural gas for fuel oil would have a reasonable effect on the reduction of nitrogen oxides presently being emitted into the Los Angeles atmosphere. Whether this would amount to a substantial reduction in the overall nitrogen oxide emissions in the Los Angeles area is subject to conjecture. Likewise, would be the overall effect on the smog problem, but the majority fails to realize that this is just one contaminant of several, the overall percentage of which can be lessened by the substitution of gas for fuel oil.

The majority's reference to the study showing that some gas-fired units across the country emit greater concentrations of nitrogen oxides, bears closer scrutiny. In the first place it is not clear as to whether these units were comparable in nature, *i.e.*, one-stage combustion, two-stage combustion, etc. Thus with today's modern plant design a comparison without equal conditions, is totally unfair. Furthermore, by their own admission, two-stage combustion units which were put into use at Edison's Mandalay Station and two units at Huntington Beach, "reduced nitrogen oxide emissions from 600 ppm to 350 ppm for oil-fired generators and 450 to 250 ppm for gas-fired generators." To be sure, there is a very important role to be played by unit design in limiting air pollution, but likewise, as can be seen from these figures, there is also a role to be played by natural gas. Significantly, even with the two-stage combustion unit, emissions of nitrogen oxide from the comparable plants in question are 100 ppm less when gas is being burned as contrasted with fuel oil.

b. *Sulphur Dioxide, Sulphates and Aerosols*

Of even greater significance than the nitrogen oxides are the sulfur oxides which will be substantially reduced as a result of substituting natural gas for fuel oil since about 75 percent of the present emissions of sulfur dioxide are attributable to the burning of fuel oil. The burning of natural gas, however, produces only negligible quantities of SO_2. Along with reduction of SO_2 it could be expected that the sulfate percentages will also be reduced proportionately since they are the result of the interaction between SO_2 and moisture in the atmosphere. It is worthy of note that the Los Angeles Air Pollution Control District (APCD) measurements indicate high sulfur dioxide concentrations in the area of power plants, diminishing with distance, whereas, sulfate concentrations increase progressively at greater distances from the power plant area. This would indicate that a decrease in the sulfur dioxide concentrations can be attributed to their conversion into sulfate aerosols. Whether this phenomenon contributes to the lower measured sulfur dioxide concentrations in the Los Angeles area as compared with other areas suffering from air pollution is subject to dispute, but it remains that with the substitution of natural gas for fuel oil both sulfur dioxide and resultant sulfate aerosols will be substantially diminished. Thus, the majority's contention that there are greater concentrations of sulfur dioxide in other cities of the nation does not in the least lessen the problems created by levels of these contaminants in Los Angeles.

In addition to reductions in quantities of sulfur dioxide and sulfates emitted into the atmosphere as a result of substituting natural gas for fuel oil, reductions can also be expected in the liquid and solid by-products of combustion known as aerosols or particulates. Through these reductions certain percentages of sub-micron particulates will be eliminated. These sub-micron particulates are believed to be particularly harmful in that they are easily inhaled into the lungs and there where they absorb subsequently inhaled gaseous pollutants. Furthermore, they comprise 86.6 percent to 88.5 percent of the fine particulate matter emitted as plumes from the stacks of electrical steam generating plants in Los Angeles County. The substitution of gas for fuel oil would reduce emissions of particulates approximately 25 percent by the majority's own admission. Nevertheless, the majority would deemphasize the importance of this percentage presumably in reliance on future research in perfecting more efficient boilers and "bag houses" to lessen these concentrations. To date, however, there is no evidence of any device that can reduce the number of sub-micron particles as effectively as the use of natural gas. Furthermore, the use of natural gas in boilers under the circumstances of this case is by far the most practical way of eliminating visible stack plumes.

When the vast sums of money which have been expended by the taxpayers of southern California for the elimination of the air pollution problem are taken into consideration, it becomes self-evident that their desire for more gas is not so much founded on economic considerations as how to get the greatest supply for the longest period of time. Since the creation of the Los Angeles APCD in 1948, over $35 million has been spent towards the control of air pollution: $10 million of this amount has gone towards research and development. The District's annual budget amounts to $3½ million and through application of APCD Rules and Regulations, industry has been encouraged to spend an additional $108 million. Furthermore, the APCD's banning of backyard incinerators in 1957 cost an initial $40 million to say nothing of the $30 million that has been required annually for the implementation of the new trash disposal system. At the present time there are under consideration proposals for the installation of devices on automobile exhausts and regardless of the proposal selected, additional millions will be required to implement it. Thus, these vast expenditures can only be interpreted as indicating an intense desire of the people of Los Angeles towards curbing the amounts of contaminants emitted daily into the atmosphere regardless of the percentage of the total air pollution problem the offending industries or machines contribute.

In view of the evidence presented with regard to the deleterious effects of air pollution, I cannot let pass without comment the majority's statement "* * * Air pollution may have some deleterious effect upon the health of the residents of Los Angeles * * * The *extent* of the deleterious effect is a matter of dispute." [Emphasis supplied.] I would agree that it is not within the expertise of this Commission to set levels at which the various pollutants are deemed to be either "safe" or "harmful". But I cannot be unmindful of the testimony and evidence presented with regard to the overall effects of air pollution on the health of the people of the Los Angeles area as well as the role played by fuel oil in contributing to these effects. In particular, I have reference to the testimony of Dr. Goldsmith of the State Department of Public Health who in testifying with regard to the lack of conclusive evidence as to "safe" or "harmful" levels of pollution, said, "[W]e cannot continue to expose our population to a serious health risk simply to perfect the evidentiary proof * * *. [T]o wait until such definitive results are obtained would be to wait too long. For by then we might have forfeited our chance to safeguard the population against serious chronic disease and the shortening of life span." Similarly, with regard to the deleterious effects present levels of fuel oil combustion have on the citizens of the area, policy statements of the Los Angeles County Medical Association concluded that "* * * pollution from fuel oil burning is a present threat to human health. Just as we would advise a physician to prevent a known disease which may never be contracted, we must seriously urge action *now* to eliminate the air pollution threat." The Los Angeles County Medical Association also endorsed testimony of record that a London-Donora type disaster could occur in Los Angeles County and urged that, "* * * Continued fuel oil burning threatens the public health and safety."

There was also the testimony of Dr. Smart, Chairman of the APCD's Scientific Committee who said, "* * * Fuel oil combustion products are importantly related to the physiological disorders which I have personally observed." He went on to state that the reduction of contaminant emissions from fuel oil burning would have a beneficial effect on human health in Los Angeles.

CONCLUSION

Since the commencement of its population explosion in the 1930's, the Los Angeles area has suffered increasingly from air pollution, due in part to its unusual geographical location and atmospheric conditions. At present, this problem has developed to the extent that the citizens of the area have had to readjust their domestic and industrial living habits away from the use of traditional energy sources, in the event that use should result in a deleterious by-product. As a result, they have gone to great lengths and expense to seek out ways of eliminating, or at least reducing, these traditional by-products of combustion, regardless of the percentage each individual source might play in the overall air pollution problem. The substitution of natural gas for fuel oil has been one of their goals.

Since the mid-1950's additional quantities of gas have been sought for the Los Angeles market. These attempts have been largely frustrated, but in *Rock Springs, supra,* the Commission gave encouragement by saying, "* * * We shall institute a proceeding to determine how the *long-term* needs for *natural gas deliveries* to southern California may be met in the manner which is most desirable from the standpoint of the public interest." [Emphasis supplied.] The Gulf Pacific project would meet this promise, but by certificating the El Paso project for 2½ years the majority has in effect reversed its *Rock Springs* position and will in the future be contributing to the levels of contaminants emitted into the Los Angeles atmosphere since the El Paso project will necessarily require the burning of more fuel and as the market increases, so will the quantities of fuel oil burned.

As has already been discussed in another section of this opinion, I do not share what I consider to be the majority's untimely optimism with regard to the exotic sources of generation, *i.e.*, nuclear and coal. Instead, I would hold for the introduction of further quantities of natural gas and place my optimism in the rapid growth of the southern California market to accommodate the production of the exotics in the years after 1970 as well as a presently certificated long-range gas supply program. The majority commits grave error, as previously stated, in placing its total reliance on small incremental additions to the TSP and the exotics. The latter are still, for the most part in the planning stage, and are faced with an uncertain future. An injustice to the southern California consumer will result. Likewise, it is unrealistic for the majority to think that the presently existing plants will be used for peaking when the exotics come into competitive being. To a certain extent, of course, this will be true, but there is entirely too much money invested in the presently existing plants to think that they could be profitably converted to peaking in the near future.

Thus, I am convinced that although evidence did not establish levels at which the various contaminants are determined to be either "safe" or "harmful", it did establish that existing levels of air pollution are deleterious to the health of the people of the Los Angeles area. Furthermore, I am convinced that although the reduction in contaminants emitted as a result of the substitution of natural gas for fuel oil will not completely solve the overall air pollution problem, it will, nevertheless, bring about a reasonable reduction and be in consonance with the overall desires and plans of the people of Los Angeles and the Los Angeles APCD.

2. COMPETITION

It cannot be controverted that Gulf Pacific would provide additional competition and another source of supply to southern California of its long-term energy requirements. This competition should be served for it has been shown that Gulf Pacific is the least expensive project and, rather than having an adverse impact on consumers, it provides generally lower rates for utility services. Once this is established, then Gulf Pacific should be permitted to free Edison and Department from reliance for service and supply from their major competitor in the energy market. Gulf Pacific provides, in the Los Angeles area itself, competition between gas and electricity and competition for industrial service.

It has been established that utilities in southern California need lower rates to be able to compete effectively with natural gas service. Contrary to the allegations of Pacific Lighting, Gulf Pacific would not serve only two industrial customers, for those buyers cannot be separated from the eight million consumers they must serve as public utilities, with rates fully regulated by the CPUC. Significantly, that agency fully supports the Gulf Pacific project for the apparent purpose among others of permitting the electric utilities to have the benefit of assured supplies at lower costs. It is not controverted on the record that Los Angeles and Edison require assured supplies to compete most effectively for the energy market. This form of interfuel competition has been repeatedly emphasized, as in the *National Power Survey*, where it was declared, at page 12:

> The electric power industry is both a major customer for the fossil fuels which provide the heat source for almost all steam-generated electricity and a direct competitor of the fossil fuel industries for many residential and industrial uses. * * * [t]he electric power industry's share of the Nation's entire basic energy has grown steadily from approximately 11 percent in 1920 to 20 percent in 1960 and is likely to reach 30 percent or more by 1980. But electricity's share of the energy market will not increase automatically. Future growth will depend increasingly on the outcome of competition with natural gas and oil for space heating and industrial uses. The ability of the electric industry to expand its share of the market in the future will depend on whether it makes the most of its opportunities for reducing the price of its product.

In this proceeding Gulf Pacific provides Edison and Department the greatest opportunity to reduce the price of their product. The difference over present rates is more than 3 cents per Mcf, and over twenty years is more than 1.5 cents per Mcf.

As for the industrial rates it is conceded by the CPUC that they are not geared to costs, but relate to a level which is competitive with fuel oil. To reduce the costs to industry it is essential the rates be reduced by the proper allocations. Proponents of Gulf Pacific emphasize that Pacific Lighting holds down the rates to its firm customers by improper allocations of interruptible rates to the competing electric utilities, yet these disruptions of proper costing techniques would not be attractive to Pacific Lighting were Gulf Pacific in the area. The CPUC acknowledges this, citing its recent investigation of those rates, where it held that "the record in this proceeding contains numerous objections to the rates, conditions and service rendered under [the interruptible] schedule and a number of the larger customers have given notice of terminating the contracts by July 1, 1962, or July 1, 1963. It should be readily apparent that the schedule is not suitable for the purpose intended." *Southern California Gas Company*, 59 Calif. P.U.C. 11, 14 (1961). Of necessity, the CPUC permitted these rates to go into effect and then endorsed the Gulf Pacific project as a solution to the problem.

Although Gulf Pacific proposes no further industrial sales at the present time, it has declared its willingness to do so. Furthermore, its mere presence in Los Angeles clearly would be an active threat. As this Commission ruled in *Natural Gas Pipeline Co. of America*, Opinion No. 474, "It seems clear that certification of such a project as Panhandle would have a potent competitive effect in the area, [a]nd should our regulatory efforts fail to preclude recurrence of past events, the presence of a second supplier would make available the possibility of an effective remedy." There Panhandle proposed no particular sales, but its mere presence was considered an effective spur to improved service in the St. Louis area. Furthermore, the Supreme Court has declared, in ordering divestiture of El Paso's merger with Pacific Northwest Pipeline Company, although Pacific Northwest never sold gas there, "We would have to wear blinders not to see that the mere efforts of Pacific Northwest to get into the California market, though unsuccessful, has a powerful influence on El Paso's business attitudes within the state." *U.S.* v. *El Paso Natural Gas Co.*, 376 U.S. 651, 660 (1964). The Court further declared, as is obvious, that "The presence of two or more suppliers gives buyers a choice." *Id.*, at 661. There is only one supplier in southern California now, and it is the largest private gas utility in the United States.

In that latter decision the Supreme Court emphasized even in the natural gas business, that the concept of competition embodied in this nation's fundamental laws may even preempt contrary regulatory determinations. Competition, of course, has many facets. In its broadest sense the policy is that of protecting the integrity of the market place, and the thrust of this nation's laws is to protect against the dominance by a single company of a particular line of commerce, not only for the nation, but also for its various areas and regions. A healthy competitive situation is to be maintained in which sellers shall be required to exercise their best efforts in determining the terms and conditions of service and supply to consumers. Competition is emphasized to protect the consumer in his choice of products of comparable utility, here between gas and electricity. The policy assumes that competition between business generates constant incentive for improvement in the quality and prices charged for goods and services; that competition promotes increased customer awareness, a definite development in the competition between various forms of energy; and that competition more generally accommodates a relatively greater degree of economic opportunity in all sectors of the economy, including the utility sector.

There are distinct problems for a governmental agency in striking a balance between competition and regulation, but it is clear that regulation alone is not intended to be the sole touchstone. The regulatory authorities cannot initiate potential gas supply projects not direct potential gas suppliers to put together any particular combination of supply arrangements. This is so because the administrative process does not act upon the assumption it has ownership and control of the regulated industries. To the contrary, it attempts to supplement not replace management. It must do this for regulation cannot act except upon review or enforcement. While we can certificate abundant supplies to southern California, and while the rates may be established by regulation, the terms and conditions of service, in the day-to-day operations of the companies, are most difficult to control. It is at this point, where the terms of service are provided daily, that competition would be most useful, and it is for this purpose that the CPUC requests that we certificate Gulf Pacific. The CPUC has previously ruled:

> It appears from the record that beginning in 1959 [Pacific Lighting] embarked upon a program of putting under long-term contract all available Southern California gas in an effort to prevent interruptible customers from obtaining independent supplies of gas. This program had the effect of forcing the price of California-produced gas upwards. 44 P.U.R. 3d 177, 185 (Calif. P.U.C. 1962).

The necessity to prevent this stranglehold is clear. A review of rates for interruptible service by Pacific Lighting since 1954 makes this clear;

Schedule	Effective Date	Rate	Increase or Decrease
G–50	12/1/54	0.29¢	Initial Rate.
G–50	5/15/55	0.32¢	Increase.
G–50	7/15/56	0.30¢	Decrease.
G–54	9/15/59	0.358¢ (winter) 0.348¢ (summer)	Increase.
G–54	1/31/61	0.386¢ (winter) 0.376¢ (summer)	Increase.
G–54	2/15/63	0.373¢ (winter) 0.363¢ (summer)	Decrease.
G–54	7/1/64	0.359¢ (winter 0.349¢ (summer)	Decrease.

The majority attaches no significance to these figures yet the rate decreases correspond fully to the initiation of competitive supply proposals. It is made more significant by the fact that the interruptible rate has varied from 3.0 to more than 7.0 cents between the border rate and the load center rate. By certificating the TSP, the majority has effectively precluded threat of competition to Pacific Lighting until such time in the future as some of the more exotic energy sources are economically feasible. There simply will not be any more projects of the magnitude of Gulf Pacific put together in the immediate future. The California consumer will, therefore, have to bear the brunt of a market devoid of competition.

We cannot approve any project merely because it will provide competition. Clearly this could be ruinous. We must consider the overriding public interest, and since the record establishes that Gulf Pacific would provide the lowest rates at the least cost, and would not have an adverse impact upon Pacific Lighting, this Commission should proceed to the conclusion here that Gulf Pacific would be fully adequate to provide the competition which is not present in Los Angeles. It provides competition to Pacific Lighting in all its rates: as to firm rates, there will be the alternative available to the consumer of lower electric rates than using gas; as to industrial rates, the offer Gulf Pacific makes to provide such service is the inducement properly to reflect in those rates the lowest possible costs; and, to the extent Pacific Lighting might seek an improper tilt toward the industrial rate, not only would it disturb its position in the energy market, but those rates would be subject to full regulation by the CPUC which is aware of the local problems of consumers in southern California, and can preclude any misallocations of costs. The outlook with Gulf Pacific is for a lowering of all rates for energy; without it, there is lacking that certainty which is possible, at its best, when competition and regulation are permitted to supplement each other.

One further note: as we have found, it is most difficult to predict the maximum benefits to California consumers, although the preponderance of the evidence indicates the maximum benefit would result with Gulf Pacific. The alternative benefits available under Pacific Lighting's program, while smaller in scope than Gulf Pacific, would be less likely achieved in the absence of Gulf Pacific for the incentive provided merely by the proposal of that project would not likely be forthcoming again. Edison will have to turn elsewhere than the Gulf Coast.

3. BOILER FUEL AND END USE CONTROLS

The fact that the sales here proposed by Gulf Pacific would be for boiler fuel is not decisive. The Transco case did not condemn full use as here proposed; it merely held that end use is a factor properly of concern to the Commission. This Commission has frequently granted certificates for such use. *Houston Texas Gas & Oil Corporation and Coastal Transmission Corp.*, Docket Nos. G–9262 and G–9960, Opinion No. 301 (16 FPC 118), *Northern Natural Gas Co.*, Docket No. G–2409 (29 FPC 1025); *Northern Natural Gas Co.*, Docket No. CP61–132, Opinion No. 374 (28 FPC 1155); *Midwestern Gas Transmission Company and Northern Natural Gas Company*, Docket No. CP61–303, Opinion No. 400 (30 FPC 469); and *Michigan Wisconsin Pipe Line Co.*, Docket No. CP64–109 (32 FPC 737), Opinion No. 441. It is clear from the record that the southern California market is geared to a heavy use of natural gas for steam generation. This results from the long history in the area of using natural gas for this purpose, and is made all the more compelling by the fact that the area is now, or soon will be, suffering from an energy deficiency. This need must be met, and, in line with the traditional patterns of use, the electric utilities will be using natural gas as boiler fuel without regard to its source. Certainly the increased amounts proposed by El Paso and Transwestern would be used to increase the amount of gas available for boiler fuel. To deny this source of energy its traditional market by certificating less volumes than are required for long-term needs would be to force the utilities to rely upon fuel oil and other energy sources to far greater extents than before, at greater costs and with the potential of increased health hazards. Certainly coal cannot be used in the existing plants by reason of the APCD restrictions. Low sulphur fuel oil, if used, would increase energy costs by twenty percent. Far greater use of remote generating stations than is presently forecast, would require virtual curtailment by Department of $300 million in installed facilities and by Edison of $750 million in installed facilities. In view of these cost considerations involved in alternatives to adequate supplies of natural gas, the utilities should be permitted to continue their planned utilization of existing plants in Los Angeles at the lowest costs possible, which is the Gulf Pacific project. It is easy to demonstrate the result of the majority's action on end-use controls. They have decided a two-fuel economy is justified until such time as the exotics are capable of competition, and they cite no valid reasons for their action, and they make no attempt whatsoever to explain their decision to reverse the decline in fuel oil. No witness testified as to the "destruction" of the two-fuel economy. There is no evidence of gross fuel oil consumption for southern California. The decline is established fact for the last decade, and is a clear conclusion in the *National Power Survey*. All trends support this. And the sharp decline in voluntary use of fuel oil over the last two years is primarily due to the action of the APCD in restricting its use. The involuntary use by persons already connected to Pacific Lighting's system is probably inherent in long-term contracting and the necessity to utilize to some degree the storage facilities. The small cost of such facilities, however, cannot justify continued use of a higher cost fuel.

The majority thus require Edison and Department, and indeed, the CPUC, to search for other sources, for the simple reason that gas is not available under their opinion, and to the extent El Paso and Transwestern can supply it, they will be able to do so only at greater costs. This will assist in pricing natural gas out of the steam electric market, and will require Edison to meet its future requirements almost one hundred percent from other fuels. This determination to control fuel use cannot be based upon record support for improper managerial action nor can it be based upon any reliable predictions of future energy patterns. Contrary to the utilities' careful analysis, the majority relies upon a hunch.

The predictions of the *National Power Survey* have become misbegotten clairvoyance. The pattern of supply must be nuclear and coal, even though the sources are highly speculative and may be more expensive. The reversal of managerial determination to rely upon natural gas, as has traditionally been done, must be considered only as a determination by the majority that the better alternative is higher costs to consumers.

CONCLUSION

It cannot be controverted that Gulf Pacific provides the most assured supply of natural gas at the lowest possible rates. It can be accommodated fully to the present market patterns. It should be certificated. The majority's determination to proceed otherwise cannot be readily comprehended. They make an inadequate attempt to compare rolled-in rates. They do not find any specific market. They can make no finding of an adverse impact on consumers. They can make no finding that expanded consumption of fuel oil is not a threat to health. They do not fully consider the great number of extra services and unique circumstances by the producers which should justify the field prices. They overlook the fact that the CPUC favors the Gulf Pacific-Transwestern solution. In short, they deny Gulf Pacific the right to a comparative hearing by favoring a limited project which even its sponsors do not propose as the only solution on this record but rather as part of the pattern for future supply. The two proposals are not comparable for 1966 and 1967. Instead, Gulf Pacific represents a long-term solution at present levels of service whereas TSP represents a gradual decline in service. Rather than make the comparison the majority chooses to withdraw in favor of a solution of less than three years which cannot be expanded or extended economically.

If their opinion is viewed as impliedly rejecting the long-term solution of Gulf Pacific in favor of the declining supply of El Paso-Transwestern-Pacific Lighting, the only basis is that FPC regulation is preferred even though the non-jurisdictional project is lower in cost and more stable. Their opinion can only be interpreted as being in opposition to direct industrial sales and industrial pipelines since this is the second attempt of an industrial pipeline to serve an area where the comparative merits between the regulated and non-regulated sales were overwhelmingly in favor of the former. (See *Oklahoma Illinois, supra*). Such a decision flies in the face of the Congressional mandate exempting direct sales from Commission jurisdiction. It is further inconceivable that after such a ruling, the consumers of southern California will be able to look to further efforts on the part of the natural gas industry to put together additional projects comparable in scope to the ones rejected by the majority today.

At the same time they emphasize flexibility, they ignore the inherent flexibility in Gulf Pacific in favor of the highly speculative new sources of generation, disregarding the more realistic estimates of the National Power Survey as to when these sources will come into competitive being with traditional sources.

As between the rival projects and the various alternatives, we do not, indeed we cannot, consider air pollution to be decisive, but that issue is not necessary to decision here. On all other issues the comparative merits preponderate in favor of Gulf Pacific. Thus, it would provide assured supplies at the lowest rates and for the least costs of facilities. In addition, among the applicants here and probably among all comparable proposals, Gulf Pacific provides the best reserves available for the demands of one of the major markets of the nation. As the least expensive project, the benefits to consumers would be the most favorable with Gulf Pacific, and there is no possible adverse impact on Pacific Lighting for Gulf Pacific will not interfere with Pacific Lighting's necessity for load equation. In terms of added costs and inflationary trends, Gulf Pacific would supply the volumes of gas needed for the next two decades at lesser investment of facilities than would the comparable El Paso and Transwestern projects. It would be the most beneficial project available to most utility consumers in southern California, and, since the intended beneficiaries of this Commission's statutory authority are consumers of both electricity and gas, which would here be benefited by electric reductions to a larger extent than they would in their use of gas, it is clear Gulf Pacific is preferable. In addition, Gulf Pacific would accommodate fully to the unchallenged electric forecasts for the forseeable future, thus providing assured supplies to the electric utilities which have the tremendous responsibility of meeting that demand. As to boiler fuel arguments, Gulf Pacific would do no more than continue present patterns of fuel usage, with concomitant benefits to air pollution problems. Arguments as to flexibility with the alternative project overlook the admitted fact that electricity must be generated, that existing plants, involving an investment of over one billion dollars and with a service life of over forty years, will need the fuel. Yet the further consideration is also compelling, *i.e.* these companies would not readily permit the demise of such a major effort as Gulf Pacific, should conditions and predictions change drastically. At the foreseeable pace of development, there will be more than adequate electric requirements to necessitate all other possible alternatives for electric generation. In addition to its many other benefits, the Gulf Pacific project would, in the event of a national emergency, provide another much needed source of supply to the energy starved West Coast.

Even though the direct sale here proposed is above the jurisdictional in-line price, it would be amenable to continuing regulation because of our control over the pipeline and the surveillance of the California Commission and the City of Los Angeles over electric rates. The 18.5 cents rate is supported by the great number of extra services and qualities provided, in addition to the long-term warranty. The majority errs in refusing even to consider a consensus viewpoint as to the necessity for certain conditions as recommended. Since the parties involved have not indicated they would not accept conditions, it is proper that they be accorded a reasonable opportunity to be aware of those conditions.

Therefore, I would grant Gulf Pacific's application to deliver firm gas to Edison and Department, subject to a 6 percent rate of return and acceptance within 90 days. Furthermore, I would condition the certificate to require the producer contract to reflect an initial price of 18.5¢ per Mcf at 14.65 psia (18.6¢ at 14.73 psia), with escalations every four years, but not to exceed the triggering level (presently 19¢ per Mcf) or a future area rate set higher than 19¢. In the event the area price were increased, the contract should allow escalation to the new price. Deliveries would be made in the proposed manner, commenc-

ing in the summer of 1968. In addition, I would sever the Transwestern applications as recommended by the CPUC, and authorize deliveries to commence at such steps as would correspond with the present requirements of the Pacific Lighting group.

In the alternative, should the proposed conditions be rejected, I would authorize El Paso to construct the necessary facilities to start deliveries in accordance with its expanded program, once the Transwestern volumes are accommodated to the market requirements. This would adequately provide for the market requirements up to 1971 and in doing so, would realize the purpose of this proceeding, long term stability for Southern California's energy requirements. The majority's inflexible regulatory stance at the expense of the consumers in southern California is neither tenable nor legal.

For these reasons I dissent from the order issued today.

INITIAL DECISION

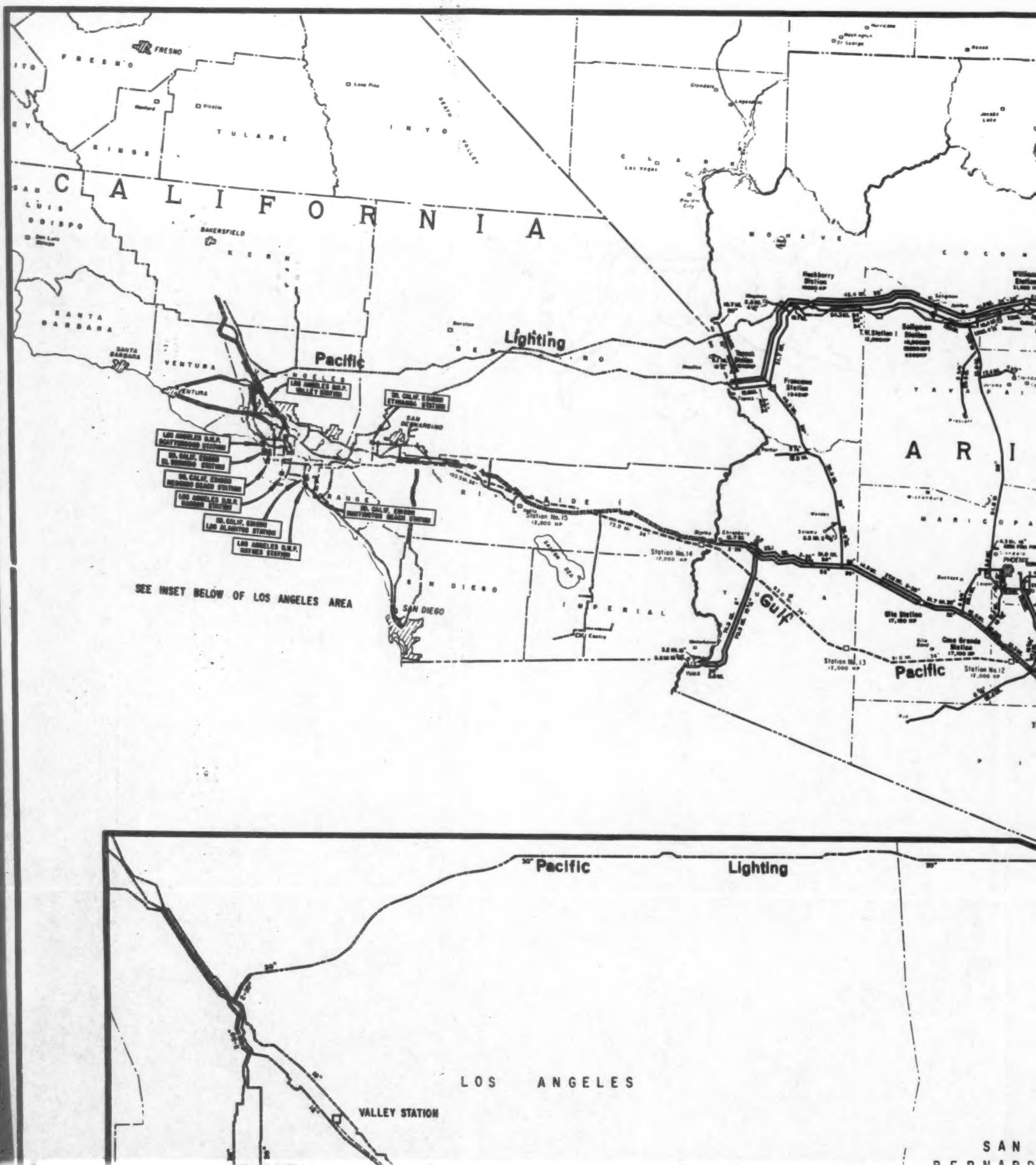
OF THE PRESIDING EXAMINER UPON APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY UNDER THE NATURAL GAS ACT

(Issued December 16, 1965)

KURTZ, *Presiding Examiner:* This proceeding involves the proposal of Southern California Edison Company (Edison) and Department of Water and Power of the City of Los Angeles, California (Department) to have transported to their electric generating facilities in the Los Angeles basin of California certain volumes of natural gas which they have purchased from producers in the State of Texas. These volumes are in addition to the purchases of natural gas from producers in the State of California and from the local distributors of natural gas in the Los Angeles basin. The local distributors are Southern California Gas Company and Southern Counties Gas Company of California. which together with Pacific Lighting Supply Company, all subsidiaries of the Pacific Lighting Corporation, complement each other in rendering service and are hereinafter referred to as Pacific Lighting, unless otherwise designated. The transportation of the gas purchased by Edison and Department is to be performed by Gulf Pacific Pipeline Company (Gulf Pacific), a wholly-owned subsidiary of Tennessee Gas Transmission Company. On February 12, 1963, Gulf Pacific filed with the Commission an application under the Natural Gas Act for authority to transport such gas and to construct the necessary facilities. This application was supplemented on May 15, 1963.

Also involved is Pacific Lighting's opposition to the above proposal of Edison and Department. It proposes to increase its purchases of natural gas and make increased volumes available to the electric companies. To carry out this proposal, Pacific Lighting will be required to purchase additional volumes of natural gas from Transwestern Pipeline Company (Transwestern) and El Paso Natural Gas Company (El Paso) at the California-Arizona border and enlarge its existing pipeline system from the California-Arizona border to Los Angeles. Both Transwestern on January 14 and October 11, 1963, and El Paso on September 30, 1963, as amended on November 12, 1963, filed applications under the Natural Gas Act for authority to increase their sales of natural gas to Pacific Lighting at the California-Arizona border and to construct the necessary facilities. The amendment filed by El Paso on November 12, 1963, also conditionally proposes the building of a pipeline to the southern California load center and for the direct sale of gas to major consumers, including Edison and Department.

The above applications were consolidated by Commission order issued October 21, 1963. A prehearing conference was held on November 19 and 20, 1963, and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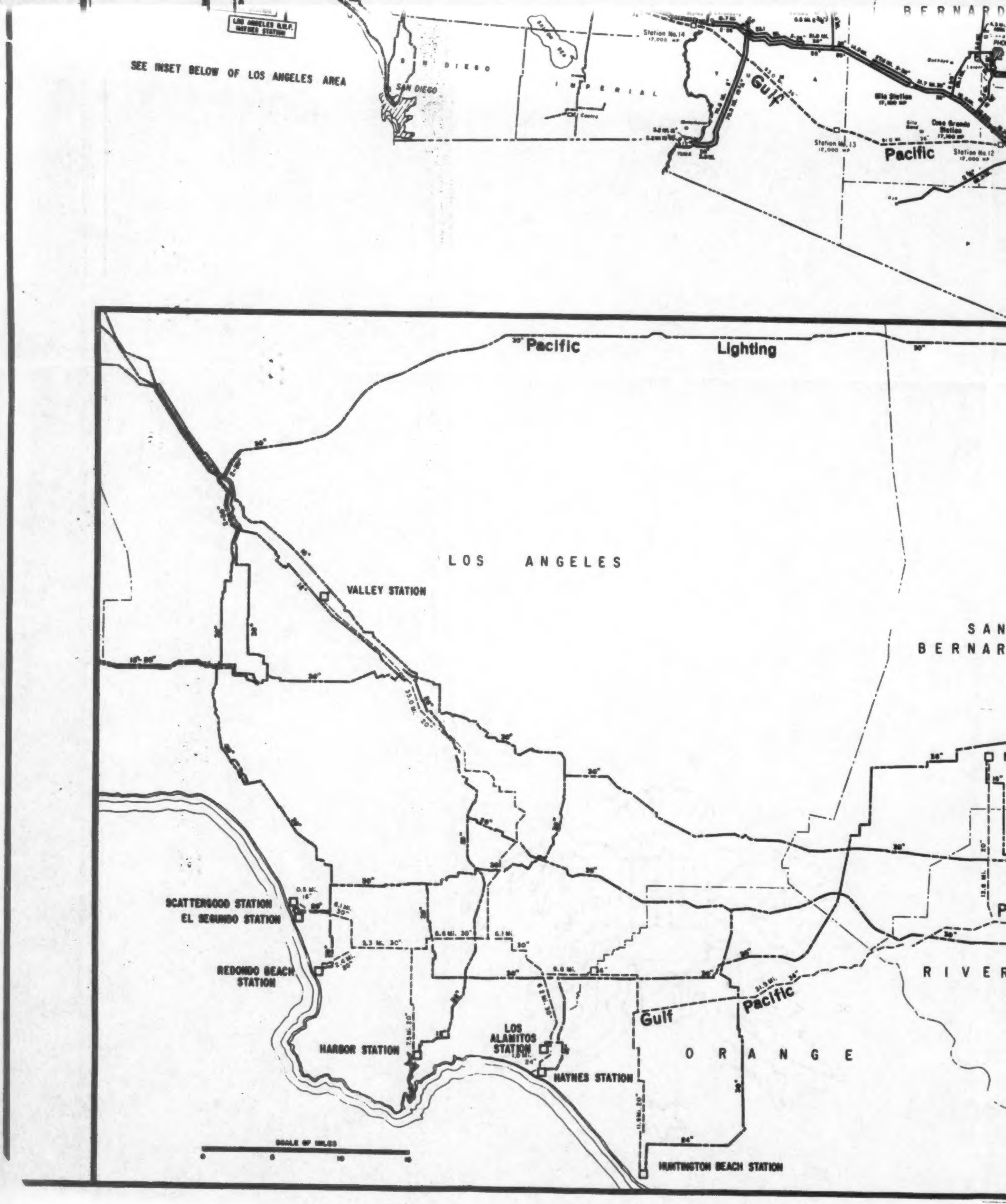
ARI
FRESNO
TULARE
KINGS
BAKERSFIELD
SANTA BARBARA
VENTURA
Pacific
Lighting
Gulf
Pacific
LOS ANGELES
SAN BERNARDINO
SAN DIEGO
IMPERIAL
Station No. 15
Station No. 14
Station No. 13
Station No. 12
Gila Station
Casa Grande Station
Hackberry Station
SEE INSET BELOW OF LOS ANGELES AREA
VALLEY STATION


SEE INSET BELOW OF LOS ANGELES AREA
SAN DIEGO
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Pacific
Station No. 14
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Station No. 12
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Casa Grande Station
Pacific
Lighting
LOS ANGELES
SAN BERNARDINO
VALLEY STATION
SCATTERGOOD STATION
EL SEGUNDO STATION
REDONDO BEACH STATION
HARBOR STATION
LOS ALAMITOS STATION
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HUNTINGTON BEACH STATION
ORANGE
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SCALE OF MILES
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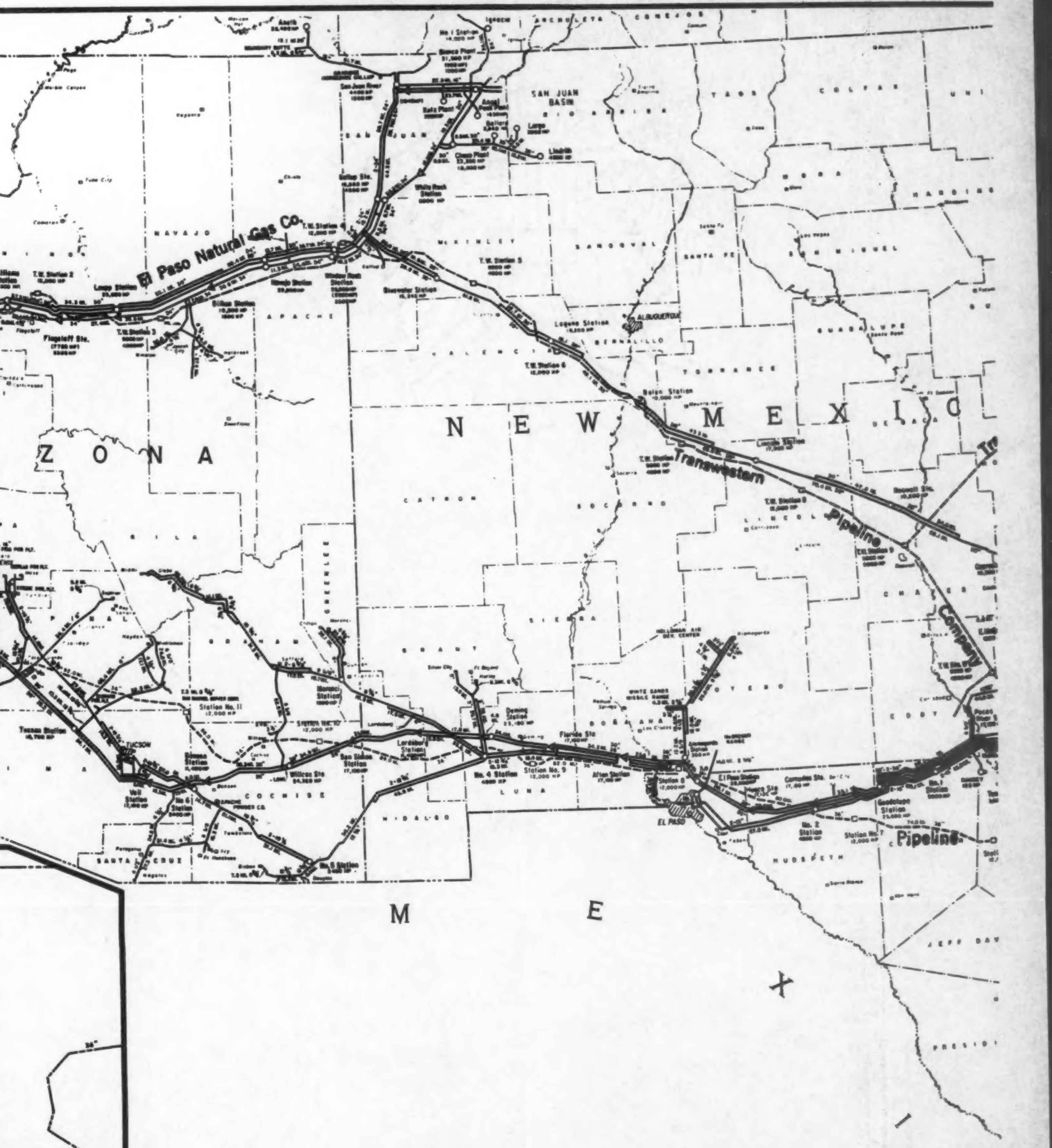
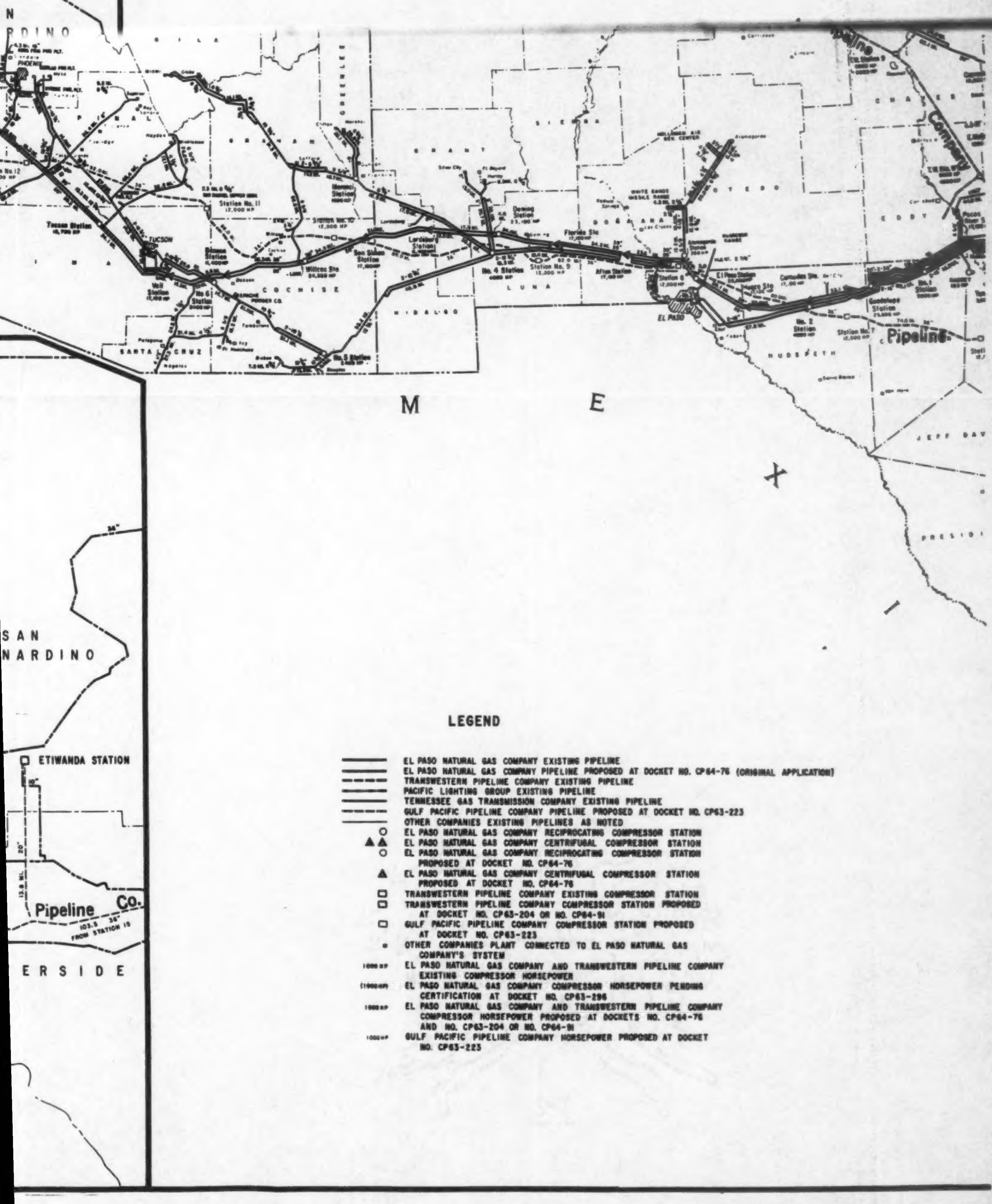
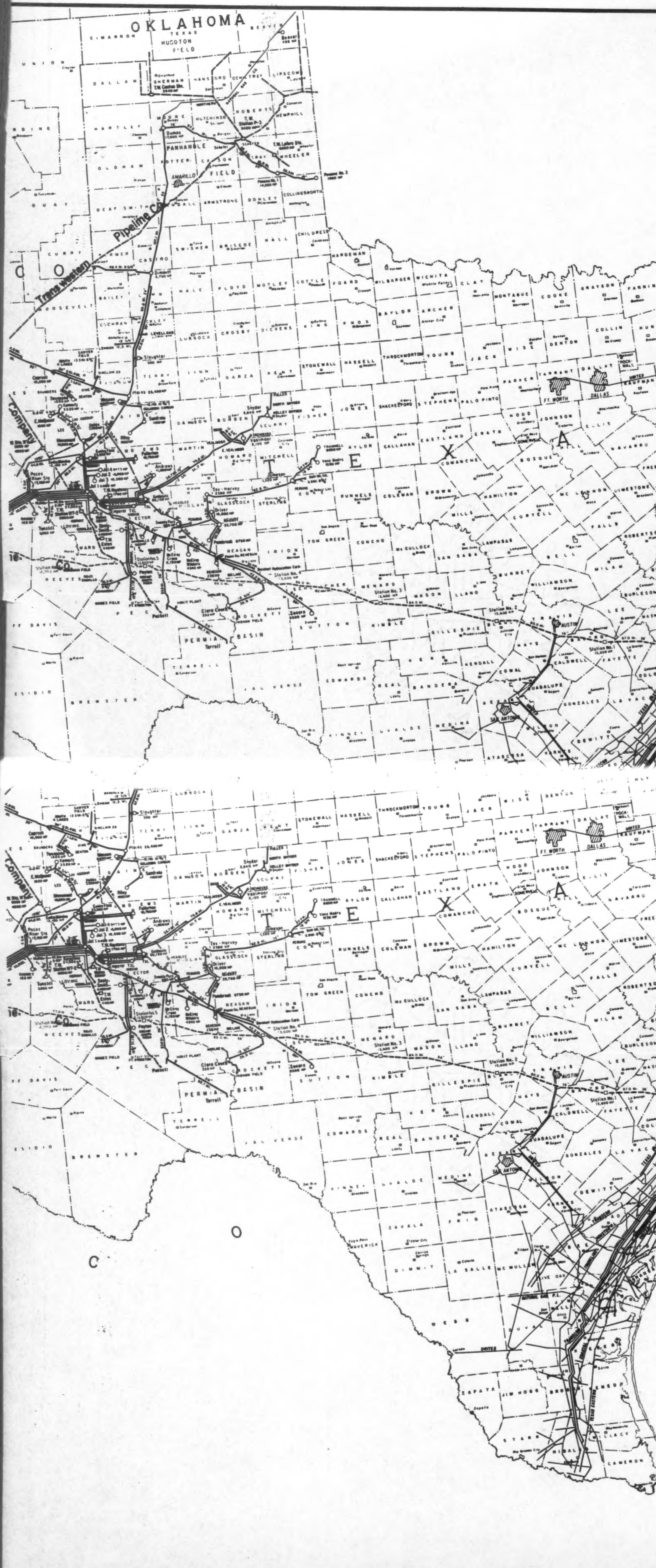

El Paso Natural Gas Co.
SAN JUAN BASIN
ALBUQUERQUE
N E W   M E X I C O
Z O N A
Transwestern Pipeline
TUCSON
EL PASO
Pipeline
M E X I


PHOENIX
TUCSON
EL PASO
Pipeline
M E X I
SAN
NARDINO
ETIWANDA STATION
Pipeline Co.
ERSIDE

LEGEND

▬▬	EL PASO NATURAL GAS COMPANY EXISTING PIPELINE
▬▬	EL PASO NATURAL GAS COMPANY PIPELINE PROPOSED AT DOCKET NO. CP64-76 (ORIGINAL APPLICATION)
─ ─ ─	TRANSWESTERN PIPELINE COMPANY EXISTING PIPELINE
───	PACIFIC LIGHTING GROUP EXISTING PIPELINE
───	TENNESSEE GAS TRANSMISSION COMPANY EXISTING PIPELINE
─ ─ ─	GULF PACIFIC PIPELINE COMPANY PIPELINE PROPOSED AT DOCKET NO. CP63-223
───	OTHER COMPANIES EXISTING PIPELINES AS NOTED
○	EL PASO NATURAL GAS COMPANY RECIPROCATING COMPRESSOR STATION
▲△	EL PASO NATURAL GAS COMPANY CENTRIFUGAL COMPRESSOR STATION
○	EL PASO NATURAL GAS COMPANY RECIPROCATING COMPRESSOR STATION PROPOSED AT DOCKET NO. CP64-76
▲	EL PASO NATURAL GAS COMPANY CENTRIFUGAL COMPRESSOR STATION PROPOSED AT DOCKET NO. CP64-76
□	TRANSWESTERN PIPELINE COMPANY EXISTING COMPRESSOR STATION
□	TRANSWESTERN PIPELINE COMPANY COMPRESSOR STATION PROPOSED AT DOCKET NO. CP63-204 OR NO. CP64-91
□	GULF PACIFIC PIPELINE COMPANY COMPRESSOR STATION PROPOSED AT DOCKET NO. CP63-223
●	OTHER COMPANIES PLANT CONNECTED TO EL PASO NATURAL GAS COMPANY'S SYSTEM
1000 HP	EL PASO NATURAL GAS COMPANY AND TRANSWESTERN PIPELINE COMPANY EXISTING COMPRESSOR HORSEPOWER
(1000 HP)	EL PASO NATURAL GAS COMPANY COMPRESSOR HORSEPOWER PENDING CERTIFICATION AT DOCKET NO. CP63-296
1000 HP	EL PASO NATURAL GAS COMPANY AND TRANSWESTERN PIPELINE COMPANY COMPRESSOR HORSEPOWER PROPOSED AT DOCKETS NO. CP64-76 AND NO. CP63-204 OR NO. CP64-91
1000 HP	GULF PACIFIC PIPELINE COMPANY HORSEPOWER PROPOSED AT DOCKET NO. CP63-223


OKLAHOMA
TEXAS
HUGOTON FIELD
PANHANDLE FIELD
AMARILLO
Transwestern Pipeline Co.
Company
Co.
T E X A
PERMIAN BASIN
FT. WORTH
DALLAS
AUSTIN
SAN ANTONIO
Station No. 1
Station No. 2
Station No. 3
Station No. 4
Station No. 5
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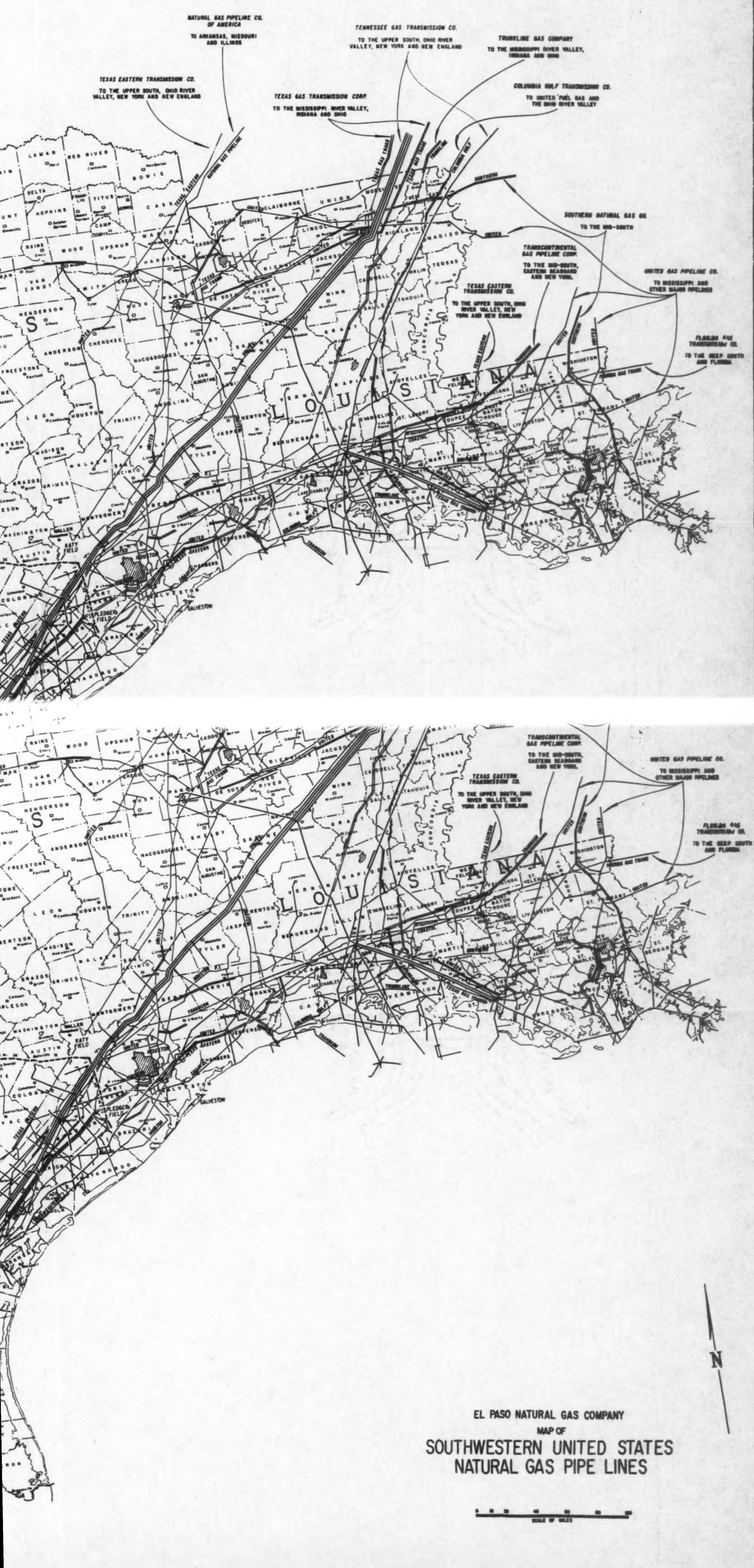
C

DOCKET NO. CP63-204 et al


NATURAL GAS PIPELINE CO. OF AMERICA
TO ARKANSAS, MISSOURI AND ILLINOIS
TEXAS EASTERN TRANSMISSION CO.
TO THE UPPER SOUTH, OHIO RIVER VALLEY, NEW YORK AND NEW ENGLAND
TENNESSEE GAS TRANSMISSION CO.
TO THE UPPER SOUTH, OHIO RIVER VALLEY, NEW YORK AND NEW ENGLAND
TRUNKLINE GAS COMPANY
TO THE MISSISSIPPI RIVER VALLEY, INDIANA AND OHIO
TEXAS GAS TRANSMISSION CORP.
TO THE MISSISSIPPI RIVER VALLEY, INDIANA AND OHIO
COLUMBIA GULF TRANSMISSION CO.
TO UNITED FUEL GAS AND THE OHIO RIVER VALLEY
SOUTHERN NATURAL GAS CO.
TO THE MID-SOUTH
TRANSCONTINENTAL GAS PIPELINE CORP.
TO THE MID-SOUTH, EASTERN SEABOARD AND NEW YORK.
TEXAS EASTERN TRANSMISSION CO.
TO THE UPPER SOUTH, OHIO RIVER VALLEY, NEW YORK AND NEW ENGLAND
UNITED GAS PIPELINE CO.
TO MISSISSIPPI AND OTHER MAJOR PIPELINES
FLORIDA GAS TRANSMISSION CO.
TO THE DEEP SOUTH AND FLORIDA
LOUISIANA
NATURAL GAS PIPELINE
TEXAS EASTERN
TEXAS GAS TRANS
TRUNKLINE
COLUMBIA GULF
SOUTHERN
UNITED
FLORIDA GAS TRANS
LAMAR
RED RIVER
BOWIE
DELTA
HOPKINS
FRANKLIN
TITUS
CASS
RAINS
WOOD
UPSHUR
CAMP
MARION
HARRISON
VAN ZANDT
SMITH
HENDERSON
ANDERSON
CHEROKEE
NACOGDOCHES
SAN AUGUSTINE
SHELBY
SABINE
FREESTONE
LEON
HOUSTON
TRINITY
ANGELINA
MADISON
WALKER
BRAZOS
GRIMES
MONTGOMERY
WASHINGTON
WALLER
AUSTIN
KATY FIELD
COLORADO
PLEDGER FIELD
HOUSTON
GALVESTON
CHAMBERS
TYLER
JASPER
NEWTON
HARDIN
ORANGE
JEFFERSON
LIBERTY
CADDO
BOSSIER
WEBSTER
CLAIBORNE
UNION
LINCOLN
DE SOTO
RED RIVER
BIENVILLE
JACKSON
WINN
CALDWELL
MOREHOUSE
RICHLAND
MADISON
FRANKLIN
TENSAS
CATAHOULA
CONCORDIA
SABINE
VERNON
RAPIDES
AVOYELLES
ALLEN
BEAUREGARD
EVANGELINE
ST. LANDRY
CALCASIEU
CAMERON
JEFFERSON DAVIS
ACADIA
LAFAYETTE
VERMILION
IBERIA
ST. MARTIN
POINTE COUPEE
WEST FELICIANA
EAST FELICIANA
ST. HELENA
WEST BATON ROUGE
EAST BATON ROUGE
LIVINGSTON
TANGIPAHOA
WASHINGTON
ST. TAMMANY
ASCENSION
ST. JAMES
ST. JOHN THE BAPTIST
ST. CHARLES
ST. BERNARD
PLAQUEMINES
TERREBONNE
LAFOURCHE
ST. MARY
N
SCALE OF MILES

EL PASO NATURAL GAS COMPANY
MAP OF
SOUTHWESTERN UNITED STATES
NATURAL GAS PIPE LINES

pursuant to Commission order the hearing commenced on June 1, 1964, and was concluded on March 17, 1965. Final briefs were filed on August 2, 1965. The following parties, in addition to Commission's staff, filed briefs: City of Los Angeles and Department of Water and Power; Western Oil and Gas Association; Stamp Out Smog; Southern California Edison Company; California Manufacturers Association; Transwestern Pipeline Company; Humble Oil & Refining Company; Gulf Pacific Pipeline Company; El Paso Natural Gas Company; Air Pollution Control District of the County of Los Angeles; Southern California Gas Company, Southern Counties Gas Company of California and Pacific Lighting Gas Supply Company; Los Angeles County Medical Association; Permian Basin Petroleum Association; New Mexico Public Service Commission; People of the State of California and The Public Utilities Commission of the State of California; Pennsylvania Public Utility Commission; Fuels Research Council, Inc., National Coal Association and United Mine Workers of America; Public Service Commission of the State of New York; Standard Oil Company of California; San Diego Gas and Electric Company; Arizona Corporation Commission; California Gas Producers Association and Oil Producers Agency of California.

This proceeding is to determine the most desirable manner of meeting the long-term needs for natural gas in Southern California and is an outgrowth of prior attempts over a period of several years of Edison and Department to obtain additional volumes of natural gas for their electric generating plants in the Los Angeles basin to supplement their purchasing from Pacific Lighting. This need for assured volumes of natural gas is now a major problem for the electric companies due to air pollution restrictions imposed by the State of California and the Los Angeles County Air Pollution Control District and also the public concern as to the burning of fuel oil.

Southern California Edison Company

Edison is the second largest electric utility company operating in the State of California. It renders electric service in approximately 67,276 square miles in fourteen counties in central and southern California and in two counties in central Nevada. As of April 1963 the service area population was 6,088,000. In the last 10 years the population rate of increase in Edison's service area was 30 percent greater than that of California. Edison has discounted the rate of growth and forecasts for 1985 a population of approximately 14 million in its service area. Edison's electric utility operations have undergone drastic changes. Before World War II the Edison system, from the electric energy generating standpoint, was primarily dependent on hydroelectric generation for its main energy requirements supplemented by thermal generation from a single steam electric station at Long Beach. In 1940 of a total of 3,654,000,000 kilowatt-hours transmitted, only 144,000,000 or less than 4 percent was thermal generation. As late as 1945 only about 10 percent of Edison's system energy was obtained from steam plant production and about 90 percent was produced in hydroelectric plants. In contrast, in 1962, a year of nearly average water supply, steam plants supplied about 80 percent of the energy requirements and hydro plants supplied the remaining 20 percent. In 1964 hydro generation was about 12 percent. Edison currently estimates that in 1969, under average water supply conditions the hydro percentage of generation will be about 10 percent.

The change in the nature of Edison's generating resources has been the result of a combination of the tremendous growth in electric energy demands and the circumstance that essentially all of the economic hydro generating sites available to the Edison system have been utilized. Edison's energy requirements during this period increased from 3,654,000,000 kilowatt-hours in 1940 to 5,714,000,000 kilowatt-hours in 1945 to 23,900,000,000 kilowatt-hours in 1962. This is projected to increase to more than 46,790,000,000 kilowatt-hours by 1969 with the former California Electric Power Company territory. As of December 12, 1963, Edison merged with California Electric Power Company. Edison's long range forecasts disclose an energy requirement of more than 195,000,000,000 kilowatt-hours in 1985. The capacity of the five plants to which the gas is to be delivered by Gulf Pacific in 1964 was 4,091,000 kilowatts and additions are being added to increase the capacity by 1967 to 6,226,000 kilowatts. This 1967 capacity will require an average daily fuel usage of 832,000 Mcf.

Combined with this tremendous increase in electric energy demands, which had to be supplied almost entirely from new thermal electric generating sources, were the effects of the increasing concern on the part of the public about the air pollution problem in the Los Angeles basin. This concern culminated in the adoption, by the state legislature of the provisions of California Health and Safety Code and the establishment by air pollution control authorities of several of the southern California counties, of restrictive regulations governing fuel use in the southern California area. The most restrictive of these regulations affecting the operation of steam electric generating stations are embodied in Rules 62 and 62.1 of the Air Pollution Control District, hereinafter referred to, which effectively prohibit at all times during the year when gas is available the use of fuel oil, which was previously used in Los Angeles County. The electric utilities are the largest fuel users in the Los Angeles basin and the insistent demands of public opinion made indignant by an increasing air pollution problem have created public pressures on the electric companies to burn gas in their generating plants.

Department of Water and Power of the City of Los Angeles

The Department is one of the departments of the City of Los Angeles operating under the provisions of the Charter of the City. It is under the general direction of a citizens Board of five Commissioners appointed by the Mayor. The Chief Administrative Officer of the Department is the General Manager and Chief Engineer who is appointed by the Board and is responsible to it. The Department's Power System provides electric service to the entire 457.9 square mile area of the City. Some of the actions of the Department are subject to the approval of the Mayor and Council, including the fixing of rates and as to contracts obligating the Department to pay money for a period longer than 3 years.

The Department has over 1,000,000 electric customers, and is the largest municipally-owned electric utility in the United States. The net dependable capability of the Department's generating plants is nearly 2½ million kilowatts. Over 72 percent of that capacity is provided by steam electric generating plants, all located in the Los Angeles area. In the year ending June 30, 1963, the electric system generated, purchased and received from interchange nearly 10,000,000,000 kilowatt-hours. Of this amount, 84.7 percent was produced by gas and oil-fired steam electric generating plants. On June 30, 1963, depreciated assets of the electric system amounted to $768,294,000. Depreciated investment in steam electric generating plants was $231,834,000. When new units to the steam electric plants presently under construction are completed in 1967, this investment will be over $330,000,000. The balance of the Department's electric generating requirements are provided by City-owned hydroelectric plants which were developed in connection with its water supply system and by the Federally-owned Hoover hydroelectric plant on the Colorado River.

On January 1, 1963, the City had a population of approximately 2,600,000. During the 10 years 1953–62, inclusive, City population has increased at an average of 2.15 percent per annum, compounded, and is expected to continue to do so. This compares with a statewide increase of 4 percent per annum, compounded, and 5.2 percent, compounded, estimated by Edison for its service area in southern California. At the same time electric service demand has increased at a faster rate. During the same 10-year period the number of Department customers has increased at a rate of 2.75 percent, compounded, and kilowatt-hour sales at 8.05 percent, compounded. These increases compare with Edison's estimate of 5.4 percent, compounded, increase in customers and 10.4 percent, compounded, in kilowatt-hour sales. Electric service use is increasing at a faster rate than gas service use. Pacific Lighting indicates a growth rate from 1953 to 1962 of 6.2 percent per annum, compounded, in firm sales and of 5.4 percent, compounded, for total market including an 8 percent to 9 percent increase in steam electric gas fuel use.

Department's long-range forecast indicates that its half hour peak demand will increase about 190 megawatts per year in the next 20 years. This means that between 1964 and 1985, the Department will have to add 3,790 megawatts of generating capacity, or approximately 150 percent of the Department's present total system capacity. Department claims that its estimates are conservative and that this historical annual growth rate in peak demand of 6.42 percent will increase to 7 percent for the period 1963–70, will be 4.6 percent for the period 1970–80, and 3.5 percent for the period 1975–85.

While the Department does not now know what means will be used to provide this additional generating capacity, the volumes of natural gas proposed to be delivered from the Gulf Pacific project are needed for existing steam electric generating plants and the two new 325 megawatt units now under construction at the Department's Haynes Steam Electric Generating Plant. All of these plants are comparatively new and will be able to absorb, for the full 20-year life more than the full quantity of gas (117.7 percent of the contract demand quantity) available to the Department as proposed.

If the additional generating capacity (excluding proposed Malibu nuclear plant) is provided by gas and oil-fired steam electric generating units, the Department's estimated average year fuel requirements for such steam electric generation are as follows:

Equivalent Gas, Cubic Feet (1,000 Btu per cubic foot)

Year	Daily Average	Annual Total	Gulf Pacific Beginning 7/1/67 and at 117.7% CDQ	Balance as Potential Market to Pacific Lighting
	Millions	*Billions*		
1965	296.0	107.9	----	----
1966	315.0	114.9	----	----
1967	330.1	120.5	49.6	70.9
1968	323.5	118.3	102.1	16.2
1969	313.7	114.5	105.2	[1] 9.3
1970	334.0	121.8	105.2	16.6
1975	451.5	164.8	111.9	52.9
1980	573.6	209.9	112.2	97.7
1985	675.9	246.7	111.9	134.8

[1] Decrease due to assumed availability of proposed nuclear unit commencing 1968.

Gas Purchase Contracts

In an attempt to secure a reliable supply of natural gas, Edison through the Bechtel Corporation contacted Tennessee Gas Transmission Company, one of the largest natural gas companies. This resulted in the contracts here under consideration entered into in January 1963 with Humble Oil & Refining Company (Humble) and some 30 other producers[1] for the purchase of natural gas from the Katy and Pledger gas fields located in Waller, Fort Bend, Harris and Brazoria Counties, Texas. Edison also as of February 1, 1963 entered into a contract which was later amended, with Gulf Pacific for the transportation of the gas purchased in the Katy and Pledger fields. Gulf Pacific as the transporter is also a party to the gas purchase agreements. In response to the Department's second invitation for bids for a continuous year-round 20-year supply, Gulf Pacific's bid which incorporated contracts with the same producers in the Katy and Pledger fields and its transportation agreement was accepted and approved by the City of Los Angeles. The gas purchase contracts are a package arrangement and are so considered by the purchasers and the other parties to this proceeding.

The terms and conditions of all these gas purchase and sale contracts are identical in substance and are treated as a group. Each producer-seller has committed itself to deliver its proportionate share of the contract volumes committed to Edison and Department, respectively, from the Katy field. This proportion is based on the percentage of ownership of each producer-seller in the two Katy units known as Unit I and II. Humble's individual proportion of the Katy sales is 45.85 percent of the gas from Unit I and 38.42 percent of the gas from Unit II. In the Pledger field Humble is the sole seller.

The contract term is for 20 years and includes a build-up period from the first through the sixth year. The contracted daily quantities from the Katy and Pledger fields are as follows (Mcf at 14.73 psia):

	Edison	Department	Total
Contract Year:			
1	370,000	220,000	590,000
2	410,000	235,000	645,000
3	445,000	235,000	680,000
4	485,000	235,000	720,000
5	485,000	245,000	730,000
6 through 20	485,000	250,000	735,000

The contracts provide that in any year Edison and Department may take up to 117.7 percent of the contract daily quantity. This represents the following daily volumes (Mcf at 14.73 psia):

	Edison	Department	Total	Annual
Contract Year:				
1	435,490	258,940	694,430	253,466,950
2	482,570	276,595	759,165	277,095,225
3	523,765	276,595	800,360	292,131,400
4	570,845	276,595	847,440	309,315,600
5	570,845	288,365	859,210	313,611,650
6 through 20	570,845	294,250	865,095	315,759,675

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[1] In addition to Humble Oil & Refining Company, the other producers are Amerada Petroleum Corporation; The Atlantic Refining Company; Bank of the Southwest National Association and Peter M. Frost, Co-Trustees of the Peter M. Frost Trust No. 261; Clarion Oil Company; George H. Coates; Continental Oil Company; Edwin L. Cox; C. M. Frost; J. M. Frost, Jr.; J. M. Frost, III; J. M. Frost, III, Trustee; General Crude Oil Company, Jake L. Hamon, Sam G. Harrison, Houston Bank & Trust Company; W. H. Keenan; Marathon Oil Company; Monsanto Chemical Company; Pan American Petroleum Corporation; Elizabeth M. Scherck (Individually); Elizabeth M. Scherck; C. W. Showers & Ralph Johnston, Trustees U/W of E. A. Showers; Shell Oil Company, E. A. Showers Trust, Sinclair Oil & Gas Company; Socony Mobil Oil Company, Inc.; Sun Oil Company; Sunray DX Oil Company; Texas Gulf Producing Company; Tidewater Oil Company, and Elaine S. White.

This 117.7 percent of the contract daily quantity is customarily referred to as a 100 percent load factor, since it reflects the maximum volumes of gas Edison and Department may take on an annual basis. The contract demand quantity figures represent 85 percent of the total volumes to which Edison and Department are entitled on an annual basis, so that operation at the contract demand level results in an 85 percent load factor.

Edison and Department are also entitled under the contracts with the producers for any one day to take from 0 percent up to 125 percent of the contract daily quantity, so long as they do not exceed 117.7 percent on an annual basis. Thus the maximum daily volumes which are available to Edison and Department from the producers in both fields are as follows (Mcf 14.73 psia):

	Edison	Department	Total
Contract Year:			
1	462,500	275,000	737,500
2	512,500	293,750	806,250
3	556,250	293,750	850,000
4	606,250	293,750	900,000
5	606,250	306,250	912,500
6 through 20	606,250	312,500	918,750

Edison and Department are not obligated to take or to pay for any volume of gas on any given day. They are obligated to take or pay for a minimum volume each month equal to the contract demand volume times the number of days in that month. If Edison or Department should fail to take that minimum during any month, it may be made up during the next succeeding 12 months. Both Edison and Department contemplate taking this gas at 100 percent load factor which reflects utilization of the full 117.7 percent of the contract demand quantity.

The producers will deliver the volumes of gas at two delivery points being the tailgates of the processing plants in the Katy and Pledger fields, respectively. These volumes will be delivered at pressures sufficient to enable the gas to enter Gulf Pacific's transmission line but in no event to exceed 1000 psig at Katy and 1100 at Pledger. The contract provides for a price adjustment for gas delivered below a heating value of 1000 Btu per cubic foot. The weighted average of the heating value to be delivered as calculated on a wet basis is 1025 over the 20-year period, starting with initial year, at 1029 and final year at 1022. This average is equivalent to a Btu content of 1042 on a dry basis. Humble's witness who made the calculations believes that the heating value will be slightly higher. It is not feasible to process the gas to a lower Btu content.

Blanketing all of the gas sales contracts in this case to Edison and Department, including the quantities that Gulf Pacific is entitled to purchase for its use, is Humble's guarantee to Edison and Department of full delivery of the gas contracted for from all of the producers, during the entire 20-year term at no cost to Edison or Department above their gas contract obligations.

Edison and Department have agreed to purchase the gas at 18.5 cents an Mcf on a pressure base of 14.65 psia (18.6 at 14.73 psia) which escalates one-cent every 4 years. There are no renegotiation clauses, no favored-nation clauses, no inflation clauses by which the price may be increased for the full 20-year term of the contract, except for reimbursement of 75 percent of any new or additional taxes imposed on production by the State of Texas. The allowable reimbursement is limited to a maximum of two cents an Mcf.

In support of the availability of gas from the Katy and Pledger gas fields estimates of reserves were made by Mr. Born, Director of the Reserves Department of Tennessee Gas Transmission Company, whose function is making gas reserve estimates of fields and areas in which Tennessee is interested or has gas purchase contracts. His estimate discloses that there is available to Edison and Department from these two fields 6,009,506,000 Mcf at 14.73 psia. In the Katy field the remaining recoverable reserves as of July 1, 1965, were 6,304,809,000 Mcf. After deduction of allowances for fuel and shrinkage and prior contract commitments, the remaining reserves available from the Katy field are 5,695,435,000 Mcf. In the Pledger field the reserves committed under Humble's Pledger contract are 359,378,000 Mcf of remaining recoverable reserves, and after allowance for fuel and shrinkage and prior contract commitments, the remaining reserves available are 314,071,000 Mcf. The deliverability of this committed gas to Edison and Department was made by Mr. Stamos, Supervising Engineer in the Reserves Department of Tennessee Gas Transmission Company. His scheduling of the reserves discloses that at a 95 percent load schedule the full requirements can be met for 16 years and at a 100 percent load factor (117.7 percent of the contract daily quantity) for 12 years and thereafter a buildup of additional gas will be required under the warranty agreement.

In addition, the Staff's evaluation of the Katy and Pledger reserves and deliverability therefrom are in agreement with Mr. Born and Mr. Stamos. El Paso brought out on cross-examination of Mr. Horton, Edison's President, that he had employed an outside consultant to evaluate the reserves and deliverability underlying their gas purchase contracts and his estimate showed reserves of about 6,000,000,000 Mcf with deliverability on the order of 15 to 16 years.

El Paso questions the gas supply available to Edison and Department from the Katy and Pledger fields claiming such reserves to be 3,906,610,000 Mcf with a deliverability life of 8.7 years. This estimate was made by Mr. Laird, a consulting geologist and petroleum engineer. To arrive at this estimate, the acre feet were reduced by 11 percent in the Katy field, the connate water was increased from 21.7 percent to 30 percent in the Katy field and a 70-percent recovery factor was used in certain of the reservoirs in the Katy and Pledger fields.

The acre feet difference between the estimates of Mr. Born and Mr. Laird resulted from isopachous mapping. In the Katy field, because of its large areal size and the low angle of dip present in the producing formations, there is a large portion of the field contained in what is known as the wedge area. The wedge area may be defined as that portion of the reservoir which lies between the gas-oil or gas-water contact at the top of the sand, and the gas-oil or gas-water contact at the base of the sand. The inner limit at the base of the producing sand formation establishes the point where the entire producing section becomes gas productive, and at that point the entire producing sand interval should be mapped as gas productive. When a Katy reservoir is bounded on all sides by a gas-water or gas-oil contact point, the wedge area extends completely around the field. Due to the immense size of the reservoirs in the Katy field and the large portion of those reservoirs contained in the wedge area, it is important to obtain adequate control to insure that the area is properly mapped. This control can be plotted by establishing the gas-water or gas-oil contact line at the base of the sand. Mr. Laird did not consider this control, nor did he obtain adequate control by any other means. Mr. Laird admitted that portions of the productive pay sections were not included in his estimates of acre feet. The amount of net pay section excluded on Mr. Laird's isopachous maps by the use of his method is determined by the amount of well control. Mr. Laird stated that Katy had a good well density, which gave him adequate control in the wedge area, but when asked which wells were in the wedge area, he just did not know. In support of the connate or interstitial water present in the formations of the Katy field, Mr. Laird stated:

Q. (Mr. Hargrove) Now, what specifically were the data which you used to arrive at your conclusion as to connate water percentages at Katy?

A. I used several sources of information including, first, electric log calculations made on ten different wells scattered throughout the field, including some ten separate reservoirs. I used the core analysis data by Core Laboratories and United Core, Inc., on three wells, including about ten different reservoirs. I included a report of Core Laboratories showing connate water—average connate water percentages in a number of fields producing from the Yegua. And I used a composite connate water versus permeability graph of the Tom Ball field, which produces from the Cock field—Yegua formation, the same formation that produces Katy, located about 20 miles distant from Katy, probably the closest producing field. I used all of that information. I didn't take the specific number of any one of those methods, but I had the range of data presented by all of those methods, including the testimony of the Humble engineers before the Railroad Commission as to the connate water content in the 1-B, and in the No. 2-A reservoir, with all of that mass of data I decided that 30 percent connate water was a reasonable figure to use for the Katy field.

The log analysis was not made by Mr. Laird. He felt not qualified to make such a determination and employed a Mr. Kelso for the interpretations who was not called as a witness to substantiate the determinations from the logs. Mr. Laird was not familiar with the data upon which Mr. Kelso relied in making his estimate. The core analysis, relied upon by Mr. Laird, consisted of one made in 1945, another in 1950 and a telephone conversation as to a Humble well somewhere in the Katy field. His core analysis data were based on a method which involves the use of water based cores and are considered far less reliable than the use of oil based cores or the capillary pressure method used by Mr. Born. The testimony of the Humble witnesses before the Texas Railroad Commission as to connate water of 30 to 35 percent relates to oil production in oil zones of the Katy field. The reservoirs in question have large gas caps and thin oil columns or zones. The log interpretation chart of Schlumberger Well Survey Corporation indicate a connate water value of 30 percent for an oil zone of Katy's characteristics and a connate water value of 11 percent for the gas zone. The witness, in support of the connate water saturation, felt it necessary to refer to other Yegua sands in other fields. Also, El Paso, in its brief, referred to a document issued by the Interstate Oil Compact Commission entitled "Unitized and Cooperative Projects in the United States issued September 1, 1952." The basis for these determinations is not disclosed nor is it known as to whether or not they refer to oil zones or gas zones.

Mr. Laird reduced the recovery factor from 85 percent to 70 percent in 12 reservoirs in the Katy field and in two reservoirs in the Pledger field on the grounds that a water drive was active therein. Under the witness's own formula, on his assumptions and at a reservoir pressure of 1,000 lbs., the recovery factor, as testified by him, would be 89 percent. In the Katy 4 sand series in order to obtain the 70 percent recovery factor he would have to abandon production at a pressure of 2,650 lbs. He did not know the history of production, the effectiveness of the water drive or what the terminal pressure is going to be. Mr. Born pointed out that the Katy field would be produced essentially as a volumetric reservoir and if there is some water drive effective in the late stages of depletion the abandonment pressure would be 1,000 lbs. If Mr. Stamos had given effect to a partial water drive the deliverability life would have been extended.

It is apparent from this record that the estimate of reserves and deliverability made by Messrs. Born and Stamos are reasonable.

The California Commission takes the position that the initial price of gas should not exceed 17 cents per Mcf, the contract escalations of 1-cent should occur each 5 years instead of each 4 years, and the price of gas should be tied to a 1042 Btu content. California in support of the 17-cent price cites the present guideline price as set forth in the Commission's Statement of General Policy No. 61–1. In support of the change in the escalation provision, the Commission's Regulations, Section 154.93(c) applicable to jurisdictional sales is cited. The basis for the 1042 Btu condition is the statement that the delivered gas will have such a Btu content. The Public Service Commission of the State of New York would like to have the initial price fixed at 15 cents per Mcf with a further condition that the price be modified to conform to the area rate to be established in Texas Gulf Coast Area Rate Proceeding, Docket No. AR64–2.

Staff states that the initial price of 18½ cents per Mcf named in the contracts between Edison and Department with Humble is excessive and that such price should be 16.2 cents per Mcf at 14.65 psia, and that such price should be tied to any area price developed in the future for Texas Railroad District No. 3. Further, if consideration is given to a fixed price for the life of the contract, the Staff suggests that the Commission's guideline rate established for Texas Railroad District No. 3 of 17 cents per Mcf at 14.65 psia would be reasonable.

The Staff in support of the proposed price condition, claims that the in-line price for jurisdictional sales in said District No. 3, in which the Katy and Pledger fields are located, is 16.2 cents per Mcf. This price follows the opinion of Staff witness, who relied on *Texaco Seaboard, Inc., et al.*, 29 FPC 593, issued March 27, 1963. In that case the Commission determined, for contracts entered into on July 1, 1960 (prior to the issuance of the Commission's Statement of General Policy No. 61–1 on September 28, 1960, 24 FPC 818, announcing a price level of 18 cents per Mcf for initial sales in Texas District No. 3), that the in-line price for such contracts was 16 cents. He also reviewed all jurisdictional contracts entered into between June 7, 1964 and December 31, 1963, in said District and relied on permanently certified sales from January 1, 1958 through December 31, 1963. In the witness's opinion the 16-cent level became 16.2 cents as a result of three permanent sales at 18 cents under contracts entered into for gas in District No. 3 between Natural Gas Pipeline Company of America and Humble Oil & Refining Company on September 1, 1962, Pan American Petroleum Corporation on October 16, 1962 and Tidewater Oil Company on October 16, 1962.[2] These contracts are not subject to the infirmities of the contracts for 17.5 cents to 20 cents per Mcf in the 1958–60 period referred to in the above *Texaco Seaboard* opinion.

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[2] BY MR. HARGROVE:

Q. Now, you have described at transcript 1918 [1981]—so I can understand the mechanics of it—that prices of 17½ cents and above should be discounted, since they have either subsequently been set aside, et cetera, et cetera. My interest is in the word "discounted." Now what do you mean by "discounted?" Do you mean to disregard it entirely?

A. No, sir, I didn't disregard them entirely, but I discounted them in that I didn't give them very much weight.

Q. And this is a mental process of your own?

A. Yes, sir.

Q. Now, in considering the 18-cent price, where you said you did not feel that they should be given controlling weight, and that you did give them some weight, how much weight did you give them?

A. The Commission arrived at an in-line price of 16 cents before the policy statement. Now, these three 18-cent sales were after the policy statement, they were not litigated, there was nothing wrong with them, and I gave them some weight, enough to make my conclusion that the in-line price after the policy statement should be 16.2.

No attempt was made by Staff witness to appraise the premium features of the Humble contract.[3] He did not know of any similar contract.

On March 27, 1963, the Commission amended its Statement of General Policy No. 61-1 by substituting 17 cents per Mcf instead of 18 cents per Mcf as a price level for District No. 3 (29 FPC 590). Under the holding in the above *Texaco Seaboard* case the 17-cent price is not applicable as the Humble contract was entered into prior to the amendment (29 FPC 593, 599).

It is noted that under the initial prices set forth in the schedule in Staff's brief during the period January 1, 1958 through December 31, 1963, for natural gas sold under permanent certificates in Texas Railroad District No. 3 that the 16.2-cent price is the same as applicable to 7 sales out of a total of 94. The initial first month volume of the 7 sales is only 669,000 Mcf out of a total of 6,107,441 Mcf, being 10.96 percent of the total volume; that the higher prices ranging from 16.5 cents to 20 cents are the prices for 33.24 percent of the sales volumes, and the 20-cent price represents 24.85 percent of the sales volume.

The question here is not the determination of an in-line price for a jurisdictional sale which may be changed under Sections 4 and 5 of the Natural Gas Act, but whether the price paid for this large block of gas will effect an increase in prices to interstate purchasers. *F.P.C.* v. *Transcontinental Gas Pipe Line Corporation*, 365 U.S. 1, 25.

Staff's exhibit relating to jurisdictional sales, in which the contracts are designated as permanently and temporarily certificated, discloses: In the year 1958, under permanent certificates, nine initial sales were made at 20 cents per Mcf. In the year 1959, under permanent certificates, two sales were made at 18 cents, one of which was reduced from the contract price of 20 cents. In the year 1960, under temporary authority, one initial sale was made at 20 cents per Mcf, five at 18 cents per Mcf of which four were contracted for at 20 cents, and two at 17.5 cents. In the year 1961, under temporary authority, one initial sale was made at 17.5 cents per Mcf and four at 18 cents per Mcf. The 18-cent price resulted from a reduction in the contract price of 20 cents per Mcf. In the year 1962, under temporary authority, two initial sales were made at a price of 17.5 cents and one at 18 cents, and three initial sales were certified at 18 cents.

It is further noted that after January 14, 1963, the date of the Humble contract, all initial jurisdictional sales have been made at a price lower than in the Humble contract *to wit:* Two sales on January 21 and 30, 1963 at 17 cents; one on February 12, 1963 at 17.5 cents; one on March 5, 1963 at 13 cents; one on March 19, 1963 at 14.5 cents; one on March 26, 1963 at 14 cents; one on April 22, 1963 at 12 cents; one on September 10 at 12 cents and one on September 11, 1963 at 15 cents. This exhibit also discloses price variations for conditions of delivery, including variations of 0.21931 cents to 0.25 cents for dehydration charges and variations of 1 cent to 2 cents for gathering charges.

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[3] BY MR. WOODBURY:

Q. I do understand correctly, do I not, that you do not include within your 16.2-cent maximum in-line price the premium features in the Gulf Pacific contract to which Mr. Hargrove referred?

A. I did not consider the premium features when I determined my in-line price. My in-line price was determined from the sales that are permanently certificated in Railroad District No. 3 for gas moving in interstate commerce.

* * * * * * *

Q. Do you have any position, Mr. Jones, as to whether or not the Edison Company, and the City of Los Angeles, acted prudently in agreeing to pay the prices that they agreed to pay for the Gulf Pacific arrangement, including the premium features in that arrangement?

A. I have no position on that.

Considering the fact that contracts have been entered into at higher prices, both for deliveries at the well and after gathering, prior to the Humble contract and that the subsequent contracts have been entered into at lower prices, it is apparent that the Humble contract will not force an increase in prices for gas to interstate purchasers. It should be noted that the Humble contract is not comparable with other contracts in this area. Several of the distinguishing features are as follows: the contract volumes are to be transported after the construction of the pipeline and are scheduled to meet Edison and Department's requirements; the volumes of gas involved under this package are by far the largest ever contracted for in this district and are equal to the capacity of the pipeline after the build-up period; the warranty under which the purchasers are guaranteed the contracted volumes at a specified quality and pressure for 20 years; and also the stability of price under such warranty for the 20-year period.

Transportation Contract

The gas purchased in the Katy and Pledger fields by Edison and Department will be transported by Gulf Pacific and delivered to the following steam electric generating stations:

Edison's stations	*Department's stations*
El Segundo	Harbor
Redondo	Valley
Alamitos	Scattergood
Huntington Beach	Haynes
Etiwanda	

The transportation contract is for a term of 20 years and requires Gulf Pacific to deliver to Edison and Department 117.7 percent of the contract demand quantity on an annual basis. It also makes available approximately two-thirds of the line pack available to Edison and one-third available to Department, with the result that Gulf Pacific is obligated when called upon by Edison and Department to instantly increase the rate of delivery of gas as needed to any combination of stations up to a maximum hourly delivery rate available from the pipeline, which available rate shall not be less than 150 percent of 1/24th of the maximum daily demand quantity, provided, however, such maximum hourly delivery rate of 150 percent shall not be maintained for a longer period than 30 minutes; otherwise the maximum aggregate delivery rate to which Edison and Department are entitled shall not exceed 135 percent of 1/24th of the maximum daily quantity. Such variations in takes will permit both Edison and Department to take at the 117.7 percent of the contract demand quantity, which they plan to so do.

Edison and Department for the transportation of their gas will pay Gulf Pacific for such service charges determined under a cost-of-service formula as set forth in the contracts. It is the policy of Gulf Pacific to pass on to Edison and Department all savings that can be achieved by it in operating costs and to this end has requested a ruling from the Internal Revenue as to the filing of a consolidated return with its parent, Tennessee Gas Transmission Company. The estimated 20-year average cost of transportation service is 14.46 cents per Mcf on the basis of a separate Federal income tax return and 13.86 cents per Mcf on the basis of a consolidated return.

The 20-year summary of costs for both gas and transportation service submitted by Gulf Pacific reflects the following delivered Mcf costs to Edison and Department. These costs are computed at the 100 percent load factor and a pressure base of 14.73 psia and reflect a Federal income tax computation under the 1964 Revenue Act. The portion of the following costs relating to the transportation service is subject to downward adjustment, as hereinafter pointed out.

	Separate Tax Return	Consolidated Tax Return	Use of Declining Balance Depreciation	
			Separate Tax Return	Consolidated Tax Return
	Cents	*Cents*	*Cents*	*Cents*
1	34.34	31.01	34.10	28.03
2	34.64	31.01	33.30	28.03
3	33.92	31.01	32.65	28.03
4	33.32	31.01	32.05	28.03
5	34.05	34.79	32.79	32.99
6	33.83	34.59	32.68	35.33
7	34.47	34.47	32.67	35.21
8	34.34	34.34	34.65	35.09
9	35.27	35.27	36.02	36.02
10	35.15	35.15	35.90	35.90
11	35.03	35.03	35.78	35.78
12	34.91	34.91	35.65	35.65
13	35.83	35.83	36.57	36.57
14	35.70	35.70	36.45	36.45
15	35.58	35.58	36.33	36.33
16	35.46	35.46	36.21	36.21
17	36.39	36.39	37.14	37.14
18	36.26	36.26	37.01	37.01
19	36.14	36.14	36.89	36.89
20	36.02	36.02	36.77	36.77
Twenty Year Average	35.05	34.57	35.11	34.51

Gulf Pacific Pipeline Company, Docket No. CP63–223

Gulf Pacific was incorporated November 28, 1962, as a Delaware corporation and is authorized to do business in the States of Texas, New Mexico, Arizona and California. It is a wholly-owned subsidiary of Tennessee Gas Transmission Company and was organized for the purpose of transporting the gas purchased by Edison and Department.

To transport the gas, Gulf Pacific will construct 1,398 miles of 36-inch pipeline from the Katy field in Texas across New Mexico and Arizona to the metropolitan area of Los Angeles, California. Other facilities include 45 miles of 20-inch line from Pledger field to the Katy field; 102 miles of delivery lines varying in size from 16 to 30 miles for delivery to the various electric generating plants; and 15 compressor stations having a total of 188,000 horsepower. The total estimated cost of these facilities is $313,923,000, which includes a contingency allowance of $14,949,000.

The pipeline is designed to transport the maximum contracted obligations. It is estimated that as to pipeline capacity, a 98 percent load factor can be maintained and the full contract volumes of 117.7 percent of the contract demand quantity on an annual basis will require the pipeline to be operated at a 96 percent capacity load factor. The pipeline will have a winter capability of delivering about 920,000 Mcf of gas per day and a summer capability of about 882,000 Mcf per day. These figures do not include line pack which is estimated for the sixth year to be about 170,000 Mcf and somewhat greater in the earlier years.

Gulf Pacific plans to finance the initial construction of the project by issuing $174,000,000 of 5 percent first mortgage bonds, $44,000,000 of 5¼ percent debentures and $73,000,000 of common stock. At the end of the third year of operation an additional $14,000,000 of 5 percent first mortgage bonds and $3,000,000 of 5¼ percent debentures will be issued. On February 1, 1963, Edison and Tennessee Gas Transmission Company entered into an agreement whereby Edison was given the option to purchase 19 percent of the common stock of Gulf Pacific, upon initial financing and of subsequent issues if any. It is contemplated that 81 percent of the common stock will be subscribed for and purchased by Tennessee. In the event that Edison exercises its option it is further agreed that Tennessee will sell and deliver to Edison and Edison will purchase from Tennessee 6 percent of the total common stock of Gulf Pacific between the beginning of the fifth year and the beginning of the ninth year of operations at the net book value per share. The option also provides for the establishment of cumulative voting and for not less than five directors on the board of Gulf Pacific.

Under Gulf Pacific's plan of financing it will have outstanding at the end of the construction period $174,000,000 first mortgage bonds, 5 percent series, due in 20 years; $44,000,000 debentures 5¼ percent series, due in 20 years; and common stock representing $73,000,000. It is expected that the debt securities will be sold at a premium sufficient to cover the expenses of sale and the common stock at a price sufficient to net the company the $73,000,000. The stock is to be subscribed to and held by Tennessee Gas Transmission Company, subject to Edison's 25 percent option. During the construction period bank loans in the amount of $254,142,000 will be obtained at a stated interest rate of 4¾ percent. It is anticipated that the interest charges on the bank loans will be at the prime rate which was at the time of hearing 4½ percent. They are to be repaid at the end of the construction period. No question has been raised as to the ability of Gulf Pacific to finance the project.

The cost-of-service formula set forth in the contracts heretofore referred to between Edison and Department with Gulf Pacific provides for a return at an annual rate of 11 percent on Gulf Pacific's equity. Equity is defined as 25 percent of the capital investment, plus working capital and the excess of the total accumulated sinking fund accrual over the total accumulated depreciation and amortization allowance.

The Staff and the Public Utilities Commission of California take exception to this allowance as being excessive. The Staff maintains the return for Gulf Pacific should be not more than a 6 percent allowance on a traditional rate base. It is California's position that a 6 percent rate of return on total capital of Gulf Pacific is eminently fair, just and reasonable. Since no rate base figure was submitted by Gulf Pacific in this proceeding, California states that for comparative purposes the rate base and total capital will be approximately the same in this instance. Gulf Pacific objects to the 6 percent return proposed by the Staff and California.

The charges which Gulf Pacific receives for the service rendered should enable it to operate successfully, to maintain its financial integrity, to attract capital, and to compensate its investors for the risks assumed. *F.P.C.* v. *Hope Natural Gas Company*, 320 U.S. 591, 605. The determination as to what is a proper rate of return to be allowed Gulf Pacific is simplified by reason of its charges being determined under a cost-of-service formula. The contracts provide that for the transportation rendered and for the availability of such transportation service, Edison and Department shall pay each month to Gulf Pacific, whether or not they shall require Gulf Pacific to transport any gas for them during such month, Edison and Department's allocated portion of Gulf Pacific's just and reasonable cost-of-service for such month. The cost-of-service includes total coverage for operating and maintenance expenses, depreciation and amortization allowances, taxes, debt service expense, and return on equity capital.

The only question presented as to rate of return is compensation to Tennessee, and possibly Edison, for the risks they will assume by the purchase of the common stock. This compensation or return, according to Gulf Pacific, should be commensurate with the returns on equity being earned by other enterprises having similar risks. The basis for the 11 percent return was a comparison of returns on equity of electric utilities, telephone companies, and 11 major pipelines which earnings included their non-jurisdictional business. Gulf Pacific contends that the important risk facing Tennessee as the holder of its common stock is that the investment will not be recouped in 20 years through the depreciation of plant and equipment allowance. This allowance is on a 28.6-year life (3.5 percent straight-line depreciation). As it is now provided for, at the end of the 20-year period the capital will consist only of common stock.

This risk is based on the assumption that no expansion will occur on the Gulf Pacific system during the 20 years, and that the transportation service for Edison and Department will terminate at the end of the present contract. This argument advanced of non-growth in Gulf Pacific's brief follows the statement made by its financial witness, who admitted that he had no basis for such a statement. It is inconsistent with other portions of Gulf Pacific's brief and the testimony of other witnesses for Gulf Pacific who pointed out the possibility of expansion of the system and the demands for gas in southern California.

If serious consideration could be given to the argument in the Gulf Pacific brief endeavoring to justify the return claimed that a "real risk" is present because additional gas might not be available to Gulf Pacific at the end of the 20-year period and also that new contracts for the sale of gas after that time might not be available, consideration would have to be given to such an affect on the economical feasibility of the project. Likewise, the Humble warranty as to its ability to furnish the gas would have to be discounted.

In the Staff's exhibit the 11 percent return on common equity of Gulf Pacific results in a return on a net rate base of 6.58 percent in the first year, and increasing to 10.86 percent in the 20th year for an average during the 20-year period of 7.68 percent. In Staff's brief this 20-year average return is calculated to be 7.26 percent. Under California's computations, based on a 6 percent return on total year-end capitalization less interest charges, the return to common equity is 8.4 percent for the first year of operation, with a high of 8.61 percent in the third year and thereafter decreasing to 5.5 percent in the 20th year, being an average for the 20-year period of 6.78 percent.

Gulf Pacific, in its Reply Brief, as to the earnings on common equity herein sought of 11 percent, refers to returns based on common equity by other pipelines under a cost-of-service formula tariff. Reference is made to four companies which have earned under a cost of service tariff for a 5-year average, 11.23 percent. The companies referred to are: American Louisiana Pipe Line Company, Chicago District Pipeline Company, Columbia Gulf Transmission Company, and Pacific Gas Transmission Company. From this comparison it is argued that the Staff's recommendation of a return that would allow only 7.26 percent on common equity invested in Gulf Pacific is unreasonable. The difficulty of going outside the record for companies to make such a comparison is that an assumption must be made as to the similarity of risks. It must be assumed that each of the companies referred to operates under a comparable cost-of-service arrangement, and that similar conditions exist as to service, capital structures and capital costs, and many other factors affecting the attraction of capital and bearing upon the value of equity securities. Even a cursory examination of data discloses as to these companies obvious differences in operations and cost formulas.

American Louisiana Pipe Line Company's cost-of-service formula provides for a 6 percent return on net investment rate base and a depreciation expense of 3.5 percent. This service is available to Michigan Wisconsin Pipe Line Company and Michigan Consolidated Gas Company. It is also engaged in making firm sales at wholesale to customers whose daily maximum requirements do not exceed 5,000 Mcf, with no provision for minimum bill.

Chicago District Pipeline Company operates under a cost-of-service formula which provides, among other things, for a 6¼ percent annual return on net investment rate base, and specifies straight-line depreciation rates including 3.1 percent on transmission plant. Service is available to Indiana and Illinois distributors purchasing gas from natural gas companies maintaining connections with Chicago District's system, which extends from connections with the systems of Natural Gas Pipeline Company of America and Midwestern Gas Transmission Company.

Columbia Gulf Transmission Company's cost formula includes a 6.21 percent adjusted return on net investment rate base and depreciation expenses at the rate of 3.5 percent. Service is limited to United Fuel Gas Company.

Pacific Gas Transmission Company's cost formula includes a 6¼ percent rate of return on net investment rate base. Depreciation expenses are computed under the remaining-life method based upon the number of years the Canadian authorities have authorized the export of gas from Canada by Alberta and Southern Gas Company, Ltd. Pacific Gas and Electric Company purchases gas under the cost formula at the California-Oregon border. The average charge was 37.05 cents per Mcf in 1963. In addition, service is available to El Paso Natural Gas Company under a cost-of-service formula of 6¼ percent return on net investment for transportation of gas into the States of Idaho, Washington and Oregon from the Canadian border. Such transportation resulted in an average charge of 2.16 cents per Mcf in 1963.

It should be noted that Gulf Pacific's financial witness agreed that many risk factors affecting the usual pipeline operations of natural gas companies considered by him were not present as to Gulf Pacific. Considering the uniqueness of the Gulf Pacific operations as to risk and particularly to the fact that its financial integrity is guaranteed by Edison and Department for a period of 20-years, the Humble warranty as to supply of gas, the growing load in southern California, the standing of its parent, Tennessee Gas Transmission Company, and of its transporters, Edison and Department, in the financial community, it is apparent that a 6 percent rate of return on a net investment rate base is reasonable and adequate at this time.

The Staff has advanced a "double leverage" theory as to the effect of the earnings of Gulf Pacific on its parent, Tennessee Gas Transmission Company, and also upon Edison in the event it exercises its option to purchase 25 percent of the common stock of Gulf Pacific. The "double leverage" theory has been referred to by the Commission in *Midwestern Gas Transmission Company*, Opinion No. 444, 32 FPC 993 at 990, issued October 13, 1964, and was therein defined as follows:

> The "double leverage" effect, which is sometimes known as "pyramiding", arises from the fact that MGT's equity capital is owned substantially by Tennessee and that Tennessee's investment in MGT must be considered to represent the investment of debt dollars and equity dollars in proportion to Tennessee's capitalization ratios. Thus, the return on MGT's equity becomes the overall rate of return on Tennessee's investment in MGT; and to the extent that Tennessee's investment represents debt capital with an imbedded cost lower than this rate of return, the return to it on that

> portion of its investment representing equity capital is increased. Moreover, as the return on equity to MGT increases, the return on Tennessee's equity invested in MGT increases geometrically * * *

In that case the Commission stated that it did not place any particular reliance on the "double leverage" theory, and pointed out that such computation demonstrates the return on equity to a subsidiary is not a measure of the return to the parent's stockholders whose funds have been invested in the subsidiary.

According to Staff's calculation a rate of return to Gulf Pacific of 6 percent under the "double leverage," would result in a return of 20.56 percent on the equity of Tennessee Gas Transmission invested in Gulf Pacific, and as to Edison 17.61 percent. To achieve this result the investment in common stock must utilize debt financing of the parent company bearing a lower interest rate than the earnings on the common stock of the subsidiary. In this case, aside from other facets, consideration cannot be given to this theory for no showing was made that the investment by Tennessee in the common stock of Gulf Pacific will be derived from borrowed funds. In fact, Staff witness concurred in the statement that Tennessee cannot use Gulf Pacific common stock as collateral for borrowing under Tennessee's bond indenture. Under Tennessee's indenture the borrowing is limited to its own physical property.

The costs shown relating to the proposed gas plant in service of Gulf Pacific appear inflated. These costs affect the transportation charges under the Gulf Pacific contract with Edison and Department. Tennessee as of December 31, 1963, claims an expenditure of $5,523,748 as being related to delivery of gas to California which amount includes questionable items and investments associated with the abandoned projects of California Gas Transmission Company and Tennessee-California as Transmission Company. On December 31, 1963, Tennessee's investment in Gulf Pacific was $526,000. The gas plant in service should only include such costs as are associated with the successful Gulf Pacific project. A determination of a proper and legitimate cost attributable to the gas plant in service of Gulf Pacific cannot be determined from the record in this proceeding. A matter of this nature invites investigation and should not lightly be passed upon. This also applies to certain other items of cost which have been questioned by the Staff and the California Public Utilities Commission which affect the charges to be made by Gulf Pacific for the transportation of gas.

Pacific Lighting

In the Pacific Lighting group of companies, Southern California Gas Company and Southern Counties Gas Company of California are engaged in the distribution of gas as public utilities in central and southern California. Their service area encompasses over 20,000 square miles with a population of approximately 10,400,000. In addition to retail service, San Diego Gas and Electric Company and Long Beach, California are served at wholesale. They also own and operate among others, transmission lines extending from the California-Arizona border near Blythe and Needles, California to the Los Angeles basin. These lines are used for the transportation of gas purchased at the border from El Paso and Transwestern. Pacific Lighting Gas Supply Company is also a public utility owning among others a transmission line extending from the California-Arizona border near Needles to the Los Angeles basin, which is used to transport gas purchased from Transwestern at the border for resale to its sister companies in the Los Angeles basin. Pacific Lighting Gas Supply Company also purchases gas produced in the State of California which is likewise resold to its sister companies. In 1964, Pacific Lighting's total supply of gas to meet the service rendered consisted of 168.7 M^{3}cf from California sources, 471.1 M^{3}cf from El Paso and 150.2 M^{3}cf from Transwestern. In addition to these purchases Pacific Lighting received from California sources 55.7 M^{3}cf for exchange and withdrew 51.4 M^{3}cf from storage (at 14.73 psia).

In 1963, Pacific Lighting purchased from El Paso under a contract demand schedule 406,293,094 Mcf of gas (at 14.9 psia with a Btu content for the gas delivered near Needles of 1080 and 1072 for the gas delivered near Blythe)[4] at a cost of 31.5 cents per Mcf. Pacific Lighting purchased an additional 16,340,797 Mcf of gas under other rate schedules at an average cost of 23.31 cents per Mcf. In 1964, Pacific Lighting's purchases from El Paso were increased to 414,220,323 Mcf under the contract demand schedule at a cost of 30.05 cents per Mcf. Also the purchases under other El Paso rate schedules were increased to 52,113,000 Mcf at an average cost of 22.48 cents per Mcf.

In 1963, Pacific Lighting's purchases from Transwestern under a contract demand schedule were 109,500,000 Mcf (at 14.73 psia) with a Btu content of approximately 1052[5] at a cost of 42 cents per Mcf, and 8,821,639 Mcf of additional gas at a cost of 21.8 cents per Mcf. In 1964, Pacific Lighting purchased 109,800,000 Mcf under the contract demand schedule at a cost of 41.8 cents per Mcf and an additional volume of 40,410,317 at an average cost of 22.4 cents.

To carry out its supply program, Pacific Lighting has entered into a contract with El Paso for an additional 250,000 Mcf of gas per day (at 14.9 psia) and with Transwestern for an additional 340,000 Mcf of gas per day (at 14.73 psia). The agreements schedule deliveries as follows:[6]

[In M^{3}cf]

Date	Transwestern (at 14.73 psia)		El Paso: Daily Contract Quantity—	
	Daily Contract Quantity	Maximum Daily Demand	at 14.9 psia	at 14.73 psia
Present Permanent Authorization	300	345	1,130	1,143
Nov. 1, 1963	350	460		
Nov. 1, 1964	450	535		
Nov. 1, 1965	535	640	1,280	1,294.7
Nov. 1, 1966			1,330	1,345.3
Jan. 1, 1967	640	640		
Nov. 1, 1967			1,380	1,395.9
Increase	340	295	250	252.9

Pacific Lighting's purchases from Transwestern are scheduled at the maximum daily volumes.

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[4] El Paso is obligated to deliver gas with a heat content of not less than 1000 Btu per cubic foot for gas from San Juan basin and 950 Btu for gas from other sources. Total bill adjusted pro rata if average total heating value of all gas delivered falls below composite of above Btu.

[5] Transwestern is obligated to deliver gas with a minimum heat content of 1000 Btu per cubic foot.

[6] Transwestern is temporarily authorized to deliver up to an average annual quantity of 430 M^{3}cf until December 31, 1965. This higher delivery is made possible by agreement of Pacific Lighting to reduce the border delivery pressure (order amending order issuing certificate in Docket No. CP64–34, issued December 4, 1964, 32 FPC 1043). El Paso's initial delivery on November 1, 1965, was scheduled to replace an interim volume of 100 M^{3}cfd (at 14.9) authorized under Docket No. CP63–296. This interim volume is being delivered through facilities built to serve the growing requirements of El Paso's east-of-California customers. El Paso has been authorized to extend the interim deliveries up to an additional year, reduced, however, to 70 M^{3}cfd because of growth of El Paso's east-of-California market (order amending order in Docket No. CP63–296, issued March 23, 1965, 33 FPC 592).

The agreement with El Paso providing for the above additional deliveries is set forth in a letter under date of July 15, 1963, and provides that the charges for the gas shall be the same as set forth in El Paso's Rate Schedule "G". The charges on that date, at 14.9 psia, were a monthly demand charge of $2.78 per Mcf and a commodity charge of 22.48 cents per Mcf, representing a cost of 31.6 cents per Mcf at 100 percent load factor.[7]

The agreement as to the Transwestern volumes is set forth in letters between Pacific Lighting and Transwestern under dates of December 11, 1962, July 31, 1963, January 13, 1964 and September 15, 1964. Different charges are named for the different level of services, *to-wit:* (per Mcf at 14.73 psia at 100 percent load factor basis).

> 39.6 cents (11 cents per Mcf of demand; 28.6 cents Mcf commodity) at the contract demand level of 350,000 Mcf and the maximum daily demand level of 460,000 Mcf. The excess volumes over the contract demand level are priced at 22 cents per Mcf. The minimum daily take is 85 percent of contract demand.
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> 37.2 cents (increased from 37 cents to 37.5 cents by the January 13, 1964 letter and decreased by September 15, 1964 letter, and the demand and commodity portions of the rate are not specified) at the contract demand level of 450,000 Mcf and the maximum daily demand level of 535,000 Mcf. The excess volumes over the contract demand level are priced at 21 cents per Mcf.
>
> 36 cents (increased from 35 cents by the January 13, 1964 letter and the demand and commodity portions of the rate are not specified) at the contract level of 535,000 Mcf and the maximum daily demand level of 640,000 Mcf. The excess volumes over the contract demand level remains at 21 cents.
>
> 32.7 cents (increased from 32.5 cents to 33.2 cents by the January 13, 1964 letter and decreased by September 15, 1964 letter and the demand and commodity portions of the rate are not specified) at the contract level of 640,000 Mcf and excess gas price remains at 21 cents. The minimum daily take requirement changes to 80 percent of contract demand.

All of the agreements recite that the charges for contract demand service shall not be in excess of those named and are conditioned on Transwestern being authorized to sell 100,000 Mcf of gas per day to Cities Service Gas Company.[8] In addition the prices referred to in the letter of July 31, 1963 as amended are based on an assumed gas purchase cost at 16.7 cents per Mcf. If Transwestern's sale to Cities Service Gas Company is not authorized, the 37.2 cents changes to 37.5 cents, the 36 cents changes to 36.5 cents and the 32.7 cents changes to 33.2 cents; and these prices are based on an assumed gas cost of 17 cents per Mcf on existing reserves and 16 cents per Mcf on new reserves. If Transwestern's gas purchase cost vary up or down by more than a tenth of a cent (0.1-cent) than those assumed then the sales prices named are to be adjusted to reflect such changes.

Under the above scheduled deliveries Pacific Lighting claims it will be able to meet the service proposed to be rendered. It takes the position that if there is found a need for more gas, the gas acquisition program will be accelerated to provide whatever level of service is found by the Commission to be in the public interest, including meeting 100 percent of the requirements of its firm and interruptible customers. If, however, Gulf Pacific is certified to transport the gas purchased by Edison and Department, Pacific Lighting takes the position that it will not undertake to meet the 100 percent requirements of its interruptible customers (also referred to as the "16th level") and additional volumes will not be required until 1970. In the words of Pacific Lighting's policy witness:

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[7] The present demand charge is $2.312 and the 100 percent load factor price is 30.08 cents per Mcf.

[8] By Commission Opinion No. 472, issued August 31, 1965, 34 FPC 659, Transwestern was authorized to sell 100,000 Mcf per day of gas to Cities Service Gas Company.

> You can forget that 16th level of service if Gulf Pacific is certified. We couldn't accept a certificate or have our suppliers accept a certificate for these supplies we have in this proceeding if Gulf Pacific were certified. We would have to shoot our operations towards the most economic level. And that means the next expansion would be in 1970.

Pacific Lighting's market estimates both before and after the adoption of Rule 62.1 of the Air Pollution Control District are almost identical. Its own estimates for the years shown of market requirements, the volumes of gas under the Gulf Pacific project and loads it does not propose to serve both without and with the Gulf Pacific project in operation, are as follows (M^{3}cf):

	1964	1965	1966	1967	1968	1969	1970	1975
Requirements:								
Firm	384	401	423	442	459	475	494	574
Interruptible	512	545	582	593	616	636	673	691
Total	896	946	1005	1035	1075	1111	1167	1265
Less Gulf Pacific Vols	--------	118	249	262	278	288	291	292
Requirements	896	828	756	773	797	823	876	973
Load Not Proposed to be Served:								
With Gulf Pacific	75	134	245	277	303	343	403	--------
Without Gulf Pacific	68	78	90	103	113	150	205	--------

According to Pacific Lighting's schedules its estimated deliveries to Edison and Department do not even equal the volumes of gas under the Gulf Pacific project, as shown by it, in 1967 and thereafter. The following are Pacific Lighting's estimated deliveries to Edison and Department giving consideration to Air Pollution Control District Rule No. 62.1 and on the assumption that the Gulf Pacific project is not certificated.

	1964	1965	1966	1967	1968	1969	1970
Edison	135	150	162	158	170	166	159
Department	81	82	88	90	84	72	68
Total	216	232	250	248	254	238	227

In a cold year Pacific Lighting's market estimates are slightly higher and the load not to be served is shown as follows:

	1964	1965	1966	1967	1968	1969	1970
With Gulf Pacific	116	170	288	322	349	392	453
Without Gulf Pacific	115	123	134	148	160	199	256

Pacific Lighting's peak day estimate shows firm requirements in millions of cubic feet, as follows:

1964-65	3,361	1967-68	3,836
1965-66	3,513	1968-69	4,004
1966-67	3,673	1969-70	4,176

Pacific Lighting claims that without the Gulf Pacific project in operation, it will be able to meet the above firm peak day requirements through the year

1966–67 and with Gulf Pacific in operation only through 1964–65. The following deficiencies are shown in millions of cubic feet:

	1965–66	1966–67	1967–68	1968–69	1969–70
Without Gulf Pacific				47	231
With Gulf Pacific	72	204	297	426	635

This difference is the result of Pacific Lighting's freezing its takes of gas from El Paso and Transwestern, at 1,143 M^{2}cf and 410 M^{2}cf per day for the years shown. It is also noted that gas from underground storage is shown at 777 M^{2}cf for 1965–66 and increasing to 955 M^{2}cf in 1969–70. This is less than the present underground storage capability which is, as follows:

	Maximum Hourly Rate (M^{2}cf)	Maximum 24-Hour Rate (M^{2}cf)
Start of Winter Season	1,280	1,150
A Day in January	1,165	1,035

The studies of Pacific Lighting show the necessity for additional storage to be added both with and without Gulf Pacific in operation. Further, Pacific Lighting has stated that if Gulf Pacific is issued a certificate it will not need additional out-of-state gas until 1970.

Pacific Lighting's policy is to take all California produced gas first and to that end it has contracted for practically all the available gas, including that which will be available in the future so as to exclude other potential purchasers. Pacific Lighting purchases California gas for different purposes. In addition to its regular purchases, gas is purchased for firm peaks only and gas designated as "call gas" which Pacific Lighting can call on the producer to deliver on any day and subject to a specified annual volume. The "call gas" is taken in the winter months and returned at a premium in the summer months. While "call gas" is available on any day, the peaking gas is available on days of peak firm demand.

Gulf Pacific, Humble, California Gas Producers Association and Oil Producers Agency of California and the Staff point out that Pacific Lighting has understated the availability of California produced gas. Pacific Lighting has contracted for additional California gas not reflected in its estimates and increased volumes are admittedly available from other present sources. Gulf Pacific would increase the availability of California gas on a peak day in 1970 to 1,259 M^{2}cf instead of 1,033 M^{2}cf.

Transwestern Pipeline Company, Docket Nos. CP63–204, CP64–91

Transwestern, a Delaware corporation, was authorized by Opinion No. 328 issued August 10, 1959 (22 FPC 391) to construct and operate its present pipeline system which consists of a 30-inch line extending from Roswell, New Mexico, to a point on the California-Arizona border near Needles and two 24-inch lines extending from Roswell, one into the Panhandle-Hugoton basin areas of Oklahoma and Texas and the other into the Permian and Delaware basin areas of New Mexico and Texas. In addition to the sale of gas to Pacific

Lighting, Transwestern makes certain main line residential, commercial and industrial sales in Oklahoma, Texas and New Mexico and also certain sales for resale in Texas and New Mexico. These sales are in addition to the 100,000 Mcf of gas per day to Cities Service Gas Company authorized on August 31, 1965 by Commission Opinion No. 472.

Under the present applications, Transwestern seeks authority to increase its level of gas deliveries to Pacific Lighting Gas Supply Company at the California-Arizona border to 640,000 Mcf per day in the increments heretofore set forth. The evidence in support of this increase in sales to Pacific Lighting was presented on the basis that the Cities Service sale would be made and on the assumption that the sale would not be made which can now be disregarded. The additional facilities proposed increases the system design capacity of 350,000 Mcf to 640,000 Mcf per day and will consist of 98,400 additional compressor horsepower, 67.3 miles of loop line on existing laterals and 15.5 miles of line to connect the Halley gas field. The estimated cost of these facilities is $44,188,700.[9]

To finance the cost of the facilities, Transwestern proposed to issue $36 million of 5¼ percent additional first mortgage bonds. This interest rate for Transwestern's bonds reflects its position in the money market as of January 9, 1964. Under the financing proposed, Transwestern's approximate debt ratio in 1965 is 76 percent; in 1966, 75 percent; in 1967, 73 percent; and in 1968, 71.2 percent. The return on equity is estimated at 9.7 percent for 1965, in 1966 through 1968 it will be slightly under 9 percent, which Transwestern considers adequate as a result of negotiations with Pacific Lighting. It is contemplated that dividends on common stock of $2,368,000 will be paid commencing in 1966.

The contract rate heretofore set forth between Pacific Lighting and Transwestern are designed to produce a 6⅔ percent rate of return. The Staff and California take exception to certain costs included in Transwestern's cost of service studies as well as the use of a 6⅔ percent rate of return. Staff's position is that Transwestern's rates should be conditioned to reflect a 6¼ percent rate of return and its costs should be reduced to reflect a Federal income tax rate of 48 percent, the flowing through of liberalized depreciation, and that in any future rate proceeding Transwestern should be prohibited from including gas prepayments in excess of $948,621. Of this amount, $48,443 is allocated to Pacific Lighting, $19 to Cities Service and $900,159 to joint use. California wants Transwestern's rates tied to the heating value of the gas and to file rates reflecting the utilization of liberalized depreciation on a flow-through basis, require lower depreciation rates based on extended service life of plant, require a change in the method of determining depreciation to a straight-line remaining life method, require a change in rate design from all incremental cost savings being assigned to the commodity component to be spread between demand and commodity charges, to reflect a 6¼ percent rate of return in its rates instead of 6⅔ percent, and to require the flow-through of any future savings due to a reduction in costs of purchased gas to its customers.

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[9] On January 25, 1965, during the closing days of the hearing, Transwestern filed a Second Supplement to its application in CP64–91 requesting authorization to construct additional facilities estimated to cost $1,574,000 to connect estimated additional reserves of 416,618 M^2cf in 10 gas fields adjacent to its West Texas lateral. These additional supplies of gas were contracted for with Gulf Oil Corporation. On objection, Exhibits 810 through 817 (Reserves and Availability Estimates, Flow Diagram Data, Cost Data and Prepared Testimony) relating to the Second Supplement were excluded due to the late filing which would have extended the hearing. The additional exhibits do not materially affect Transwestern's estimates in that the availability of gas to meet full requirements with warranty gas is extended one year and the rate of return would be reduced four hundredths of 1 percent in 1965 and seven hundredths of 1 percent in 1966 and 1967. Exhibits 858 through 863, the gas purchase contracts, were received as evidence of Transwestern's ability to secure additional gas. (Sec. 2.61 of the Commission's General Policy and Interpretations.)

Transwestern offered evidence as to a proper rate of return. Its consultant testified that a proper rate of return for Transwestern would be not less than 7 percent. Pacific Lighting in its study of Transwestern's cost of service study used 6¼ percent, but its witness testified that he had made no study to determine what rate of return Transwestern should be allowed. Witnesses for the Staff and California testified to the same effect. The Staff points out that in the original certificate case, the rates were computed using a 6¼ percent rate of return, thus the Commission made a "rate of return determination" and the same rate of return should be used here in accordance with the Commission's holding in *Texas Gas Transmission Corp.*, 22 FPC 378. The Commission has not made a determination of the reasonable rate of return for Transwestern. The cost of money does vary from time to time as well as the value of equity securities. The original certificate was issued 6 years ago, on August 10, 1959, and the use of the 6¼ percent rate of return at that time does not mean that such a rate is reasonable today. The *Texas Gas Transmission* case is not in point. In that case just 4 months had elapsed after a rate settlement, which is a considerable difference of time than 6 years. Transwestern does not oppose the use of the 48 percent corporate income tax rate, or the requirement to file rate changes resulting from the increase in volume of sales and as to the costs of gas. It does oppose the other suggested conditions.

Transwestern is an existing natural gas company. The conditions proposed by the Staff and California would change the character of this proceeding to one for determination of just and reasonable rates. The evidence relating to these proposed conditions is, at the most, only superficial and is not sufficient to justify the requested conditions.

Transwestern, while conceding that its supply of gas is insufficient to meet its full requirements beyond a claimed 10-year period from 1963 alleges that it will be faced in the immediate future with a problem of having to pay for gas that it cannot take. It takes the position that if certificates here sought are granted it will be able to work out the prepayment problem which it has created. Transwestern submitted a schedule of costs applicable to gas prepayments for the years 1966 through 1973 amounting to $39,594,000, which it claimed would increase its cost of service by $28,565,000, during this period. In 1963, Transwestern's total advances for gas to be purchased amounted to $849,771. Of this amount, $325,033 was payments made prior to initial delivery of gas and $524,738 was for gas to be taken over the term of a contract. In 1964, the advances were $818,039 of which $275,702 was payments prior to purchase and $542,337 for gas to be taken over the term of a contract.

The contracts under which Transwestern originally commenced service and which have given rise to the prepayment problem contain provisions requiring it to take-or-pay for specific quantities of gas based upon the reserves which by agreement of the parties are determined to be underlying the leases in the contracts. The extent of Transwestern's future prepayments are not known nor can it be determined if Transwestern will have to forfeit any of the gas as to which the prepayments are made. Transwestern has obtained deferral agreements as to a determination of reserves with many of its producers, as well as the tendering of certain gas volumes. The sale to Cities Service will substantially affect Transwestern's prepayment position and short-term sales may be made to other pipelines. Transwestern's principal supplier from its inception is the

Gulf Oil Corporation which owns better than 30 percent of its common stock and has certain directors in common. In the face of a claimed possible adverse prepayment position, Transwestern recently contracted with Gulf Oil Corporation for additional supplies, which contracts set forth take-or-pay provisions. In one instance, Transwestern changed a make-up provision in a Gulf contract from the life of the contract to a 5-year period. Transwestern's witness refused to state whether such prepayment costs would in fact be incurred. Even if incurred, before any allowance for such prepayments can be considered in a rate proceeding, a determination will have to be made as to whether or not they are prudent and proper. On the showing here made, it is doubtful if such prepayments will occur.

Transwestern has projected its requirements on the basis of 100 percent contract demand delivery in accordance with the schedule of deliveries to Pacific Lighting heretofore set forth and on the assumption of delivery to Cities Service Gas Company of 50,000 Mcf per day commencing on January 1, 1964, with 100,000 Mcf per day beginning January 1, 1966, plus its other sales and fuel requirements. In support of the above requirements, Transwestern submitted a gas reserve estimate showing 4,625,622 M^{2}cf as being dedicated to its pipeline system plus 866,580 M^{2}cf warranted by Gulf Oil Corporation. The Gulf Oil warranty dated October 7, 1963, provides that if a certificate is issued that Gulf will make up any deficiency that might occur under Transwestern's gas purchase contracts in the Worsham-Bayer Ellenburger Gas field up to 1,095,000 M^{2}cf. Of this amount, 228,420 M^{2}cf is estimated to be proved gas reserve. Based on these reserves, Transwestern submitted several availability studies based upon the physical capability of the wells to produce. The scheduling of gas under these availability studies commenced in the last 6 months of 1963 and one discloses that warranty gas will be required in the year 1968 and with such warranty gas the estimates disclose an ability to meet full requirements through the year 1973. Another schedule discloses that without the warranty gas and by a rearrangement of takes, in which the reserves are depleted at a faster rate, Transwestern will be able to meet the above requirements through the year 1971. Transwestern's showing, even considering the availability of gas under the additional contracts submitted with its Second Supplement, does not meet the Commission's standard of 12 years. (Sec. 2.61 General Policy and Interpretations).

The Staff in this proceeding takes no issue with Transwestern's "supply capabilities" due to the proximity of its system to developing gas reserves and its demonstrated ability to contract for additional reserves as disclosed by the above-mentioned 6 contracts with Gulf Oil Corporation. It does point out that some downward adjustment in the reserves estimated by Transwestern may be reasonable and that the warranty gas should not be considered. This conclusion that Transwestern's reserves are sufficient is based upon Transwestern's statement that the producers will deliver up to the capability of the wells to produce rather than upon the obligations of the producers to deliver the maximum daily contract quantities. The Staff's exhibit based upon the maximum daily contract quantities discloses a deficiency occurring in the year 1967.

Gulf Pacific and Humble take exception to Transwestern's showing as to its gas supply claiming that it is inadequate. Gulf Pacific would reduce Transwestern's reserves in 6 reservoirs by 448,028 M^{2}cf which would limit its ability to meet the projected requirements only through the year 1969. This reduction is due to the use of the pressure decline method in estimating reserves. Transwestern's witness estimated the reserves in the 6 reservoirs in question by use of the volumetric method and his estimate is at odds with the actual pressure-production performance in the fields. Transwestern's witness refused to recognize the maximum pressure reported by the operators under oath to the Texas Railroad Commission. He claimed that such pressures were not stabilized even though he had no personal knowledge that they were not. He refused to recognize that the reservoir pressure could be calculated from the shut-in wellhead pressure reported to the Texas Railroad Commission. He did not know why pressure data are reported to the Texas Commission. At the same time, as disclosed by his work papers, he used in many instances such reported figures to the Texas Commission to determine bottom-hole pressure. The failure of the witness to recognize the reported pressure resulted in his reserve being over estimated by 448,028 M^{2}cf. In addition, the availability studies are over stated by the witness's use of maximum contract demand instead of the higher maximum daily volumes which Pacific Lighting forecasts it will purchase. Included in the availability studies are reserves which will not be connected and reserves which have been released. Whether or not the producers from which Transwestern proposes to purchase the volumes in excess of contract volumes have or will install the necessary facilities is not known. Approximately 16 of the producers have contract rights to process gas on Transwestern's main line and no allowance has been made for plant fuel and shrinkage. The availability studies include gas from Warren Petroleum Corporation's Monument and Sitter Plants which depend upon additional sources of gas to be developed and connected to partly offset the declining production from currently connected sources.

It is apparent from this record that Transwestern's gas supply is not sufficient to justify the issuance of certificates of public convenience and necessity as here proposed.

El Paso Natural Gas Company, Docket No. CP64–76

El Paso, a Delaware corporation, is a natural gas company engaged in the business of producing, purchasing, transporting and selling natural gas at wholesale to distributing companies and other pipeline companies for resale, and to industries and others for their own use. The pipeline system of El Paso[10] extends from fields located in the Permian basin of west Texas and southeast New Mexico, the Texas and Oklahoma Panhandle, the San Juan basin of northwest New Mexico and southwest Colorado, and the Four Corners area of the States of Arizona, New Mexico, Utah and Colorado, through the States of Texas, New Mexico and Arizona to points of termination at the boundary between the States of California and Arizona near Blythe, California, and Topock, Arizona, and to a point of termination at the boundary between the States of Arizona and Nevada near Big Bend, Arizona.

El Paso in this proceeding proposes to increase its sales to Pacific Lighting by an additional 250,000 Mcf per day at 14.9 psia[11] in accordance with its agreement with Pacific Lighting heretofore referred to. On November 12, 1963, El Paso filed an amendment to its application indicating a willingness to deliver an additional 325,000 Mcf per day to Pacific Lighting near Needles, California, above the 250,000 Mcf per day. The schedule of additional deliveries to be 475,000 Mcf per day commencing January 1, 1966, 500,000 Mcf on November 1, 1967, and the total amount of 575,000 Mcf[12] to commence on January 1, 1968 It also submitted an alternative to this proposal. In the event Pacific Lighting should be unwilling to accept deliveries of 575,000 Mcf and upon the Commission's finding that the direct sales to customers in Los Angeles basin are required by public interest, El Paso proposes to transport the 575,000 Mcf plus 290,000 Mcf to be supplied by Transwestern from the California-Arizona border and sell the 865,000 Mcf [13] to industrial customers in the Los Angeles basin. This amendment contemplates deliveries by Transwestern as proposed by its application in this proceeding to Pacific Lighting, or in the alternative to a pipeline which El Paso would construct for the delivery of gas to the Los Angeles load center.

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[10] The Pacific Northwest Division of El Paso's pipeline system is subject to divestiture. *U.S.* v. *El Paso Natural Gas Co.*, 376 U.S. 651 (1964).

[11] 252,875 Mcf at 14.73 psia.

[12] 581,613 Mcf at 14.73 psia.

In order to accomplish the increased sale of 250,000 Mcf per day El Paso proposes to construct approximately 47,350 horsepower at existing compressor stations; 24,000 horsepower at new compressor stations; 193 miles of pipeline looping; additional absorption, dehydration, and fractionation capacity at existing plants, and other related facilities. The total estimated cost of such facilities is $50,442,000.

To make delivery of an additional 575,000 Mcf to Pacific Lighting, El Paso proposes to construct approximately 393.3 miles of new 30-inch line in New Mexico and Arizona (the Chaco-Needles line); 190 miles of 30-inch line loop on the existing Permian-San Juan cross-over line in New Mexico and 149 miles of additional connecting lines plus gathering lines and 58,400 additional horsepower installed in existing compressor stations and 14,500 horsepower in new stations plus miscellaneous facilities. The total cost of these facilities is estimated at $134,207,000. At the request of Pacific Lighting, El Paso submitted a study for the delivery of 325,000 Mcf above the 250,000 Mcf proposed in its original application by means of additions to its existing system rather than through the Chaco-Needles line proposed in its first amendment. This alternative proposal does not take into consideration possible higher operating costs and El Paso prefers to construct the new Chaco-Needles line to any additional looping of existing lines for the 325,000 Mcf capacity over the 250,000 Mcf originally sought. To make the deliveries of the 865,000 Mcf, El Paso proposed to construct 231.5 miles of 36-inch main line, 102.4 miles of sales laterals, two 12,000 horsepower compressor stations, and miscellaneous facilities in the State of California. El Paso estimates that the capital cost to deliver 865,000 Mcf from the California-Arizona border to Los Angeles is $63,488,000.

El Paso's proposed financing depending on the particular project contemplates the sale of the following securities:

	250 M^{2}cf	575 M^{2}cf	865 M^{2}cf
Common Stock	$13,800,000	$37,350,000	$55,000,000
1st Mortgage	28,000,000	90,650,000	135,240,000
Sinking Fund Debentures	10,000,000	10,000,000	13,000,000
	51,800,000	138,000,000	203,240,000

El Paso states that if it receives a certificate to deliver an additional 250,000 Mcf per day it will reduce existing rates by ¾ of a cent when such deliveries reach 200,000 Mcf a day (November 1, 1966). If its amended application is granted a reduction of 1-cent will be made when deliveries reach an additional 500,000 Mcf per day (January 1, 1967), over the presently certificated volumes of 1,130,000 Mcf per day. On the basis of a ¾-cent reduction the rate to Pacific Lighting at 100 percent load factor would be 29.33 cents per Mcf at 14.9 psia and 29 cents per Mcf at 14.73 psia. On the basis of a 1-cent reduction, the rate to Pacific Lighting at 100 percent load factor would be 29.08 cents per Mcf at 14.9

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[13] 871,613 Mcf at 14.73 psia.

psia and 28.75 cents per Mcf at 14.73 psia. This offer to reduce rates assumes that there will be no increase in producer prices over the prices that are set forth in its exhibits. If at the dates of the proposed reduction the producer prices are either higher or lower the rate reduction will be adjusted to reflect the changes.

With reference to the proposal to deliver 865,000 Mcf to Los Angeles, El Paso states that it will not enter into a contract for such deliveries with Edison and Department as it does not want to be in a position of having a "Mobile-type contract" and that it will not offer a fixed price over a long term under any circumstance. El Paso's estimated costs at Los Angeles using a 6⅛ percent return are computed by El Paso, as follows:

Cost at the Los Angeles Load Center

	1966	1967	1968	1969	1970
	Cents	*Cents*	*Cents*	*Cents*	*Cents*
Mcf at 14.9 psia	34.67	34.00	33.85	33.86	33.86
Mcf at 14.73 psia	34.27	33.61	33.46	33.47	33.47

The Staff contends that a further reduction of 0.28 cents per Mcf should be made by El Paso, a total of 1.03 cents per Mcf instead of 0.75 cents per Mcf at the time of the additional deliveries of 200,000 Mcf per day. This additional reduction is computed on El Paso's projected 1970 earnings and a rate of return of 6.44 percent was reduced to 6⅛ percent, which return was found reasonable in ***El Paso Natural Gas Company***, Opinion No. 366, 28 FPC 688, issued October 19, 1962. El Paso takes the position that it is offering a fixed reduction and the difference between 6⅛ percent and the resulting return is "for the imponderables, the things that we might not be able to foresee." Mr. Boyd, in speaking for El Paso stated:

> PRESIDING EXAMINER: Do I understand that it is the position of the El Paso Natural Gas Company that such a return [6⅛%] is reasonably sufficient to assure confidence in the financial soundness of El Paso and is adequate to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties?
>
> THE WITNESS: That is another way of asking me, Mr. Examiner, whether or not I consider 6⅛ to be fair and reasonable. I consider the determination of the rate of return to be a highly complex question. It is a judgment factor. It is one that changes from month to month. I can say to you that we are confident that on the rates that we have proposed that we would be able to finance, that we would be financially strong.
>
> What that situation might be in the future, what might be the cost of money, and the other factors that go into the matter of the determination of the rate of return, I cannot foresee.

El Paso's calculated return on the 250,000 Mcf expansion is as follows:

1965	1966	1967	1968	1969	1970
Percent	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*
6.26	6.35	6.29	6.45	6.33	6.44

The Staff's proposed reduction in El Paso's rates would bring the return in 1965, 1966, 1967 and 1969 below 6⅛ percent. This and certain other adjustments that Staff would make in El Paso's cost studies, as pointed out above relating to Transwestern, are matters for determination in a rate case.

El Paso claims a gas supply of 15 years under the 250,000 Mcf expansion and 13 years under the 575,000 Mcf expansion, from January 1, 1963, based upon reserves of 30,897 billion cubic feet. Exceptions to El Paso's claimed gas supply are taken by Gulf Pacific, Humble and the Staff. The Staff, while it questions certain reserve estimates takes the position that El Paso's deliverability is adequate to support its application. In certain of the El Paso gas fields, reserve estimates were made and the differences are as follows:

Remaining Recoverable Reserves—January 1, 1963

Fields	El Paso (M^{2}cf)	Gulf Pacific (M^{2}cf)	Difference (M^{2}cf)
BY GULF PACIFIC			
San Juan Basin:			
Mesaverde	6,391,988	4,940,622	(1,451,366)
Basin-Dakota	3,575,600	1,657,402	(1,918,198)
Delaware Basin:			
Cayanosa	381,900	378,774	(3,126)
Gomez	1,170,000	377,596	(792,404)
Worsham-Bayer	486,700	0	(486,700)
	12,006,288	7,354,394	(4,651,894)
BY STAFF	El Paso (M^{2}cf)	Staff (M^{2}cf)	Difference (M^{2}cf)
San Juan Basin: Basin-Dakota	3,559,400	2,767,300	(792,100)
Delaware Basin:			
Gomez-Ellenburger	1,170,100	636,600	(533,500)
Brown-Bassett	1,578,400	712,000	(866,400)
BY HUMBLE	El Paso (M^{2}cf)	Humble (M^{2}cf)	Difference (M^{2}cf)
Lea County Dry Gas:			
Blinebry	281,300	198,000	(83.300)
Jalmat	676,900	448,000	(228,900)
Eumont	448,000	288,000	(160,000)
Tubb	73,400	73,400	0
Justis	166,700	166,700	0
Crosby	67,300	37,900	(29,400)
	1,713,600	1,212,000	(501,600)

In addition to the above, Humble, Gulf Pacific, and Staff take exception to the amount of gas shown in El Paso's estimate as being available as casinghead gas production from west Texas including the Permian basin. During 1963, a total of 1,238,900 Mcf per day of residue gas was estimated to be delivered to El Paso from plants which gather primarily casinghead gas in the Permian basin. This amounts to 58.8 percent of El Paso's total gas supply from the Permian basin, and in that year the Permian basin supply amounted to 57.7 percent of El Paso's total gas supply, so that the Permian casinghead gas amounted in 1963 to 33.9 percent of El Paso's total gas supply. Since casinghead gas is produced in conjunction with the production of oil, its availability is determined by the amount of gas produced per barrel (the gas-oil ratio) and the total number of barrels of oil produced. Oil production in Texas is subject to proration, which is accomplished by the Texas Railroad Commission setting a specific number of days in each month in which a well may be produced. The so-called producing day percentage is determined by dividing the number of producing days permitted by the proration authorities by the total number of days in the month. This does not mean that oil is produced only on 8 or 10 days per month, but it does mean that the total monthly production from a well can be equal to only 8 or 10 days, or whatever the number of producing days may be, times the daily allowable of the well. Since casinghead gas can be produced only when oil is produced, it is apparent that the estimated availability of casinghead gas is dependent upon the allowed producing days. The Staff concurs with Humble, in the conclusion that El Paso has overstated the number of producing days. It is also noted for comparison that in the year 1976, Transwestern estimated for its west Texas supply, a producing day percentage of 38.9 percent, while Humble used 40.1 percent, whereas El Paso used 80.5 percent. The actual producing days permitted by the Texas Railroad Commission since the date of the estimates substantiates Humble's estimate. (Texas Commission allowable for 1964 was 28.2 percent, Humble 28.6 percent, El Paso 29.5 percent; and during the first 4 months of 1965, Texas Commission 29.1 percent, Humble 29.6 percent, and El Paso 31.2 percent). It also is evident that El Paso failed to give adequate consideration to the effects of waterflooding in the reservoirs in determining its availability of casinghead gas which is overstated.

In the San Juan basin, El Paso used an extremely high load factor for the operation of the wells and it is doubtful that such a load factor can be maintained. The San Juan estimate also depends upon an assumption that virtually all of the under developed areas in the San Juan basin will be drilled and that the deliverability from such wells will equal existing wells in the better areas of the field. El Paso objects to Gulf Pacific's use of certain pressure data including that which it reported to the New Mexico Commission designated as shut-in wellhead pressure. In addition, disagreement exists as to a number of other factors used in making up the estimate.

In the Delaware basin the difference between El Paso and Gulf Pacific as to the fields considered, rests on assumptions as to the proved area in each field and in the assumptions as to the net pay thickness of producing sands. El Paso estimated the proved area beyond usual limits and assumed 100 percent of the gross Ellenburger formation thickness as being productive in said fields. This assumption as to net pay in this formation is excessive considering the use of 70 percent for such formation in other fields based upon performance, which Gulf Pacific used.

In the Lea County dry gas fields considered, Humble used a composite pressure decline curve for estimating reserves. El Paso in four of the fields used individual well curves and a composite pressure decline curve in two of the fields. Individual well pressure curves are resorted to in fields where little or no communication between wells exists. In the Lea County fields there is good communications in the reservoir. El Paso in justification of the individual well curve method used in four of the fields was based upon the claim of the presence of liquids in the hole. In the two fields which he used a composite curve, the average liquid yield was 13 times as great as in two of the fields where individual well curves were used. The interpretation of individual well curves is subject to the particular time at which the curve is drawn and interpreted, and subsequent data frequently alters a prior prediction. Thus, it is the accepted industry practice to use a composite curve. El Paso took into consideration in its composite curves the supercompressibility factor for gas (commonly called the "Z" factor) but did not take this factor into consideration for the individual well pressure determinations. There is evidence that the reserves in these wells have reached the point of declining deliverability. Up to the year 1963, these fields had lost 108 gas wells due to abandonments, conversions to oil or shut-in. El Paso estimates more wells will be drilled, and contemplates no further net loss of wells will take place as the fields continue to decline toward final depletion. It also assumes that these wells will reach peak production in the late stages of reserve depletion when they are 80 to 100 percent depleted. As a general rule, full deliverability is maintained only up to 60 or 70 percent of reserve depletion.

El Paso in its deliverability studies assumed that its deliveries from wells in the East Panhandle field, received at the Panoma Plant, will increase from 35.5 M^2cf per day in 1963 to 102 M^2cf per day in 1977. El Paso does not control the takes from this field. It only has 398 out of 1,285 wells. Of the 398 dedicated to El Paso, 285 have been assigned limited allowables because they cannot produce the regularly prorated allowable, and of these limited allowable wells, 200 do not produce even the assigned limited allowable. It is noted that the shut-in wellhead pressure has dropped 50 pounds in the past 2 years, but El Paso has allowed only a 66-pound drop in the next 11 to 12 years.

It is clear that the weight of evidence is against the availability of gas as estimated by El Paso and its estimate cannot be accepted.

The Staff deliverability study did not give consideration to the divestiture of El Paso's Pacific Northwest Division. Further, according to Staff witness, it was not a complete deliverability study of the whole El Paso system and as to Permian basin only two reservoirs were considered for which the Staff had made reserve estimates. In the words of the witness "This is not a complete deliverability study of the whole El Paso System. That would entail looking into the reserves of 208 reservoirs and 64,000 wells."

Gulf Pacific submitted a deliverability study reflecting the estimates of El Paso's reserves made by it and Humble, including the availability of casinghead gas from west Texas. This system deliverability study disclosed that after accelerating El Paso's assumed well drilling program in the San Juan basin to the maximum in order to make up for the deficiencies that would otherwise occur, and after reducing the line pressure in the San Juan reservoirs considerably sooner than scheduled by El Paso in order to maximize deliverability, El Paso cannot meet its full estimated requirements under the 250,000 Mcf per day proposal after 1972. Under the 575,000 Mcf per day proposal, El Paso would fall short of meeting its requirements after 1970.

In evaluating El Paso's ability to obtain additional supplies of gas in the future from existing sources, it must be kept in mind that El Paso's system sells and consumes approximately 1.3 trillion cubic feet of gas annually. This means that El Paso must be able to replace this volume annually. Its estimated losses from field fuel and shrinkage alone, just in the Permian basin, are 2.8 trillion cubic feet over a 13-year period of 600,000 Mcf per day. In the El Paso supply areas there are a number of other major pipelines competing with it for new supplies, even in the San Juan basin it will be subject to competition by reason of divestiture of the Northwest Division. El Paso has already attempted to obtain gas from the Gulf Coast of Texas, the Gulf Coast of Louisiana, and even offshore Louisiana. It is also noted that El Paso has attempted to obtain additional gas through the so-called *Lo-Vaca* Project which involves a cost to El Paso of more than 29 cents per Mcf delivered at the east end of its existing system in west Texas. (*Lo-Vaca Gathering Co.*, 26 FPC 606; reversed 323 F. 2d 190; affirmed, *sub nom State of California* v. *Lo-Vaca Gathering Co.*, 379 U.S. 366). These actions are not consistent with El Paso's present assertions, in that, it appears certain, El Paso's future delivered cost of gas will increase as new sources of supply are attached to its system.

Air Pollution

It is conceded by all parties that Los Angeles has an air pollution problem. The extent to which fuel oil burning contributes to this problem is in dispute in this proceeding. The evidence here presented looking toward a reduction in fuel oil burning and an increase in gas fuel burning in the Los Angeles basin is presented by witnesses representing governmental agencies responsible for the protection of the health of the community, state and nation, *i.e.*, Air Pollution Control District of the County of Los Angeles (APCD), State of California and United States Public Health Service, and by medical doctors in the Los Angeles basin. Edison and Department support the position of the APCD that a need exists for a reduction in fuel oil burning as a means of reducing the air pollution, as well as the Los Angeles County Medical Association, Stamp Out Smog, a corporation serving as a voluntary citizens organizations. This position is also concurred in by Gulf Pacific and Humble.

In support of the claim that the substitution of gas for fuel oil now burned in Los Angeles power plants will not affect the Los Angeles air pollution problem, evidence was presented by Western Oil & Gas Association (WOGA). Standard Oil Company of California supports this position, along with the Staff, El Paso, and California Manufacturers Association. Pacific Lighting states that its existing form of service is completely compatible with the requirements of gas for air pollution control[14] and the Gulf Pacific project is not required for such purpose, however, it reluctantly takes the position that if a need is found for more gas, it desires to supply such gas.

Air pollution has now become a matter of public concern both at national, state and local levels. California, pursuant to its police power in 1947 enlarged its Health and Safety Code relating to the control and suppressions of air pollution and created Air Pollution Control Districts. This enactment found and declared that the people of the State of California have a primary interest in atmospheric purity and freedom of the air from any air contaminants and that there is pollution of the atmosphere in many portions of the State which is detrimental to the public peace, health, safety, and welfare of the people of the State. The enactment also found that in portions of the State the air is polluted with smoke, charred paper, dust, soot, grime, carbon, noxious acids, fumes, gases, odors, particulate matter, and other air contaminants; and that it is necessary, therefore, to provide for air pollution control districts in those portions of the state where regulations are necessary and feasible to reduce air contaminants in order to safeguard life, health, property and the public welfare and to make possible the comfortable enjoyment of life and property. Air Pollution Control Districts were created under this Act in each county of the State. However, before the control district can function the Board of Supervisors must hold a public hearing and adopt a resolution as to the need for such control. California State Health and Safety Code, Sections 24198, 24199, 24200, 24205. In addition to the Air Pollution Control District of the County of Los Angeles, four other counties in the Los Angeles basin have found a need for such control.

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[14] Pacific Lighting witness, Mr. Kelsey, in response to questions concerning assumptions as to voluntary use of alternative fuel and curtailments, in the Pacific Lighting market studies, on Friday, November 6, 1964 testified:

Q. (Mr. Littell) Yes, that means, doesn't it, your tailored supply program does not provide sufficient gas to meet Rule 62.1, isn't that true?

A. Yes.

Q. That is all that means.

A. And Rule 62, also.

Q. There is not enough gas to provide for either of them?

A. It is not intended to.

On Tuesday, November 10, 1964:

Q. (Mr. Edsall) Did you intend to testify, Mr. Kelsey, that Rule 62.1 requires your customers to satisfy their fuel requirements 100 percent with natural gas, and failing to do so, are in violation of that rule?

A. No. Because the rule relieves the customers when we curtail service in the Rule 62.1 period.

The Los Angeles Air Pollution Control District (APCD) was formed in 1948 with the Los Angeles County Board of Supervisors as its governing body. Since that time it has spent over $35,000,000 of which nearly $10,000,000 has been spent on research and development. It has a staff of about 285 employees with an annual budget of approximately $3,500,000. Pursuant to its research, restrictive rules have been enacted to prevent the emission of contaminants. At the present time the Rules and Regulations of the Air Pollution Control District are composed of seven regulations, containing some 82 individual rules. As a result industry has expended nearly $108,000,000 on air pollution control equipment, which is largely non-productive.

Banning of backyard trash incinerators in 1957 has cost the County taxpayers an estimated $40,000,000 investment and an additional $30,000,000 annually. Substantial reduction in hydro-carbon emissions have been achieved as a result of these rules which affect all industry and commerce. Resulting therefrom some 4400 tons of air contaminants from stationary sources are prevented from reaching the atmosphere each day. It is estimated that stationary sources are still responsible for daily emissions of some 2,000 tons of various contaminants. The present power plants in the Los Angeles basin are a major source of pollution. When burning fuel oil, they emit into the atmosphere a daily average of 175 to 240 tons of nitrogen oxides, 475 to 575 tons of sulfur dioxides and 37 to 45 tons of particulants. With the burning of natural gas the emissions of sulfur dioxide are virtually zero. Nitrogen oxides are reduced to a level of 81 to 112 tons and particulants to a level of three to five tons. In Los Angeles about 80 percent of the pollutants are from motor vehicle emissions and 20 percent comes from industry and other sources including steam electric generating plants.

Since 1955 the Los Angeles County Board of Supervisors have sought an increase in supplies of natural gas for industrial use in Los Angeles County. In 1958, APCD adopted Rule 62 which restricted the burning of fuel oil during the five summer months, when gas was available. In 1961, this rule was extended to seven months, and in 1964 to twelve months, by Rule 62.1. The purpose of these rules is to require industry to burn natural gas exclusively. If natural gas is not available then, of course, fuel oil can be burned. The Legislature of the State of California also has restricted emissions of visible plumes which exceed a specified darkness or opacity. Edison and Department are subject to the enforcement activities by local air pollution control authorities and must obtain construction and operating permits or variances for the steam electric generating stations, such variances being on a year-to-year basis with applications for renewal and adequate showings being required to satisfy the local air pollution control authorities that the utility has been diligently seeking means of bringing its operations into compliance, such as by obtaining additional gas fuel supplies.

There is no dispute among the parties that Los Angeles suffers from so-called "photo-chemical" smog. This is a type of air pollution in which hydrocarbons, nitrogen oxides and sulfur dioxide play a part and in the atmopshere react together under the influence of sunlight causing eye irritation, obscured visibility and plant damage. It is contended by the parties opposing Edison and Department's plan to import gas that the photo-chemical smog is caused by automobiles and the Los Angeles power plants are not significantly involved in causing such smog; that the pollutants admitted by the power plants are not a meaningful measure of air pollution but rather the amount of concentrations in the atmosphere, and further, the air pollution in Los Angeles does not have any effect on the health of its inhabitants.

In support of the contention that the Los Angeles smog does not affect health, WOGA presented Dr. Hine, a physician, faculty member of the University of California School of Medicine and a consulting toxicologist. He named as some of the contaminants in the Los Angeles air, ozone and other oxidants, hydrocarbons, nitrogen oxide, carbon monoxide, sulfur dioxide, and particulate matter. In his opinion the pollutants are not of such a level as to result in disasters effecting morbidity and mortality or incite chronic diseases, especially asthma, bronchitis, emphysema and lung cancer associated with high levels of air pollution. He also stated:

> Q. Now, speaking of chronic disease and general health, are there any adverse effects on health of the general population or any specific segment thereof as a result of exposure to the air pollution as it exists in Los Angeles County?
>
> A. The answer is no if we are to consider morbidity and mortality as criteria of ill health. The answer is yes, if we are to extend the concept of health to include such nuisance conditions as eye irritation, symptoms of difficulty in breathing and enjoyment of the total environment.

Dr. Hines testified that no improvement in the air condition in Los Angeles has resulted from the adoption of Rule 62 by the APCD. He did recognize that there might be a difference of opinion among medical doctors as to the adverse effect on health of the Los Angeles basin air.

The preponderance of the evidence is against the contentions of WOGA and in favor of the benefits to be derived by the people in the Los Angeles basin by the use of gas under the boilers in the power plants therein. The record here is clear that the public wants the increased level of gas service and is ready to pay for it. The benefits not only relate to the health of the people and their welfare but also to the loss of food and fibre crops in the Los Angeles area which has been estimated to be in excess of $5,000,000 annually.

The advantages of using natural gas in the power plants instead of fuel oil is that no ash is found in the combustion of natural gas, no oxides of sulphur, nitrogen oxides are less than one-half the amount produced from fuel oil burning and the problem of opacity violating stack plumes is eliminated. The plumes are caused by aerosols which are liquid or solid particulate matter dispersed in the air.

The Los Angeles basin is unusual in that it has a limited air supply which traps and retains contaminants for long periods of time both in winter and summer. The wind flow is relatively weak and the pattern of flow is such that polluted air is accumulated in the basin. Another characteristic of the Los Angeles climate is the so-called "temperature inversion" which results in the confinement of air in the basin. This temperature inversion is present over the Los Angeles basin at some altitude below 5,000 feet on an average of more than 300 days a year. The extreme low level intervals occur most frequently during the winter season. The number of days having an inversion layer with a base less than 100 feet above ground is far greater in the period from November through March than at any other time of the year. In December and January more than two out of every three days have an inversion at this extreme low level.

It is a matter of common knowledge that the Los Angeles area is subject to severe air pollution. This Commission in its National Power Survey (1964) in reference to the national air pollution control policy pointed out that such policy leaves to the states and local agencies the primary responsibility for air pollution control with assistance in research, administration, and other aspects of control programs to be provided by the Federal government, and states:

> The Los Angeles metropolitan area has been plagued by an air pollution problem for years. Air pollution in Los Angeles is the result of contaminants produced by all sectors of its industrial and human endeavors. In addition to some 17,000 productive industries in the metropolitan area, 3 million automobiles burning 5½ million gallons of gasoline per day contribute contaminants to the air. Smog is a frequent threat, even with the controls that have been instituted. Without such controls, the situation would often be intolerable.

Public complaint as to air pollution is continuous and wide spread, including complaints directed to the operation of steam electric generating plants. These complaints include eye irritation and respiratory discomfort. The present atmospheric conditions in the Los Angeles basin do present a health problem. This is borne out by the testimony of three outstanding doctors of medicine specializing in this field, called by the APCD.

Doctor Smart, a renowned chest specialist who appeared voluntarily, without compensation and at his own personal expense, has confined his private practice since 1931 to medical diseases of the chest and is Chairman of the Medical Staff of the Good Samaritan Hospital in Los Angeles and Clinical Professor of Medicine at the University of Southern California School of Medicine, testified that the air pollution levels which presently exist in Los Angeles causes and aggravates chronic respiratory disease and even premature death. The air pollution to which he refers is the "total complex" in which there may be, and often is, an element of photo-chemical smog.

Doctor Motley, Professor of Medicine and Director of the Cardio-Respiratory Laboratory, University of Southern California School of Medicine, and Director of Research, Hospital of the Good Samaritan, Los Angeles, testified that his studies involving the effects of only ordinary levels of Los Angeles smog, discloses that Los Angeles air pollution can aggravate the severity of the chronic pulmonary disease known as emphysema. He pointed out that in the Los Angeles area there are several hundred thousand people out of approximately several million people who suffer from emphysema, and that a significant segment of the population in this area who are almost complete respiratory cripples for whom prevailing levels of air pollution could be very dangerous. This disease also affects the heart and such patients are susceptible to respiratory infection. In his opinion ozone, oxides of nitrogen and sulphur oxides and a combination thereof aggravate emphysema.

Doctor Goldsmith, the Head of the Air Pollution Medical Studies in the Bureau of Chronic Diseases of the California State Department of Public Health, expressed the opinion that there is a real hazard in the level of air pollution existing in Los Angeles and such level could produce and aggravate chronic respiratory disease, and there is evidence which indicates that the present levels of air pollution in the Los Angeles area pose serious risks to public health.

The claim is advanced that the air pollution in the electric generating plants burning fuel oil can be controlled or partially controlled by use of mechanical devices, such as a bag house, power plant burner and boiler design modifications. Edison has and is continuing its research in air pollution even to the extent of again constructing a fuel-scale prototype bag filter house for the removal of particulate matter (solid particles) from plant flue gases. The bag house has been operated intermittently since February 15, 1965. When operated the bag house recovered 99 percent of the particulate matter and somewhere between 94 and 95 percent of the SO_3 and eliminated plumes. Since 1956 Edison alone has spent more than $3,628,000 in research efforts to search out means of eliminating contaminants from the burning of fuel oil. While advances have been made they have not proved satisfactory, the most promising technical and physical means of reducing air contaminants from steam electric generating stations is to substitute natural gas for fuel oil.

The Los Angeles air pollution problem will not be eliminated by the increased use of gas under boilers but the reduction in tonnage of pollutants in the magnitude here under consideration will affect the concentration of contaminants and aid in the program of the APCD to reduce air pollution to the benefit of the people in the Los Angeles basin.

Edison and Department, regardless of the merits of any scientific controversy over the burning of fuel oil, are faced with regulatory prohibitions against the burning of fuel oil, public complaints about such burning, and advice from the medical fraternity to its patients to the effect that air pollution is harmful. These facts, alone, impose upon Edison and Department the public duty to minimize, if not eliminate, the burning of fuel oil in their steam electric generating plants in the Los Angeles basin. To this end, Edison and Department have contracted for the gas to be provded by Humble. Sixty-seven to seventy percent of all industry in southern California is in Los Angeles County and to the extent to which the Gulf Pacific project will make Pacific Lighting gas available to other industrial fuel users, will contribute to the reduction of air pollution.

The fact that air pollution exists in other areas is not grounds for denial of the Gulf Pacific project. The President, in his message of February 8, 1965, to The Congress of the United States, pointed out that air pollution is no longer confined to isolated places and referred to the health hazard present as a result of air pollution, along with loss of efficiency, reduction in property values, and raising of taxes. He referred not only to motor vehicles but also to home heating plants, municipal dumps and factories continually hurling pollutants into the air we breathe to the extent of each day almost 50,000 tons of unpleasant, and sometimes poisonous, sulfur dioxide are added to the atmosphere, along with our automobiles producing almost 300,000 tons of other pollutants. He also pointed out that in Donora, Pennsylvania, in 1948, and New York City in 1953, serious illness and some deaths were produced by sharp increases in air pollution. In New Orleans, epidemic outbreaks of asthmatic attacks are associated with air pollutants. Three-fourths of the eight million people in the Los Angeles area are annoyed by severe eye irritation much of the year. And our health authorities are increasingly concerned with the damaging effects of the continued breathing of polluted air by all our people in every city in the country. The above statements in the message to Congress coincide with the record in this proceeding. Edison and Department are to be commended in their effort to help reduce the air pollution in the Los Angeles basin. Dollars are a poor substitute for the health of the people in the Los Angeles basin.

Standard Oil Company of California favors Pacific Lighting's tailored supply program. It points out that Pacific Lighting is firmly committed to the maintenance of a two-fuel economy in southern Calfornia and the tailored supply program is intended to preserve the balance between the use of gas and oil. Both Edison and Department have for many years received a substantial portion of its thermal energy requirement from Standard in the form of fuel oil. The conditions under which fuel oil was an acceptable fuel in the Los Angeles basin have changed. No longer has a fuel user in the basin any freedom or choice between fuels either on the basis of operating characteristics or from an economic standpoint. The determination that gas should be burned in steam electric plants by the Air Pollution Control District as an aid to air pollution control, supplants Standard's position.

Adequacy of Service

The primary and major consideration presented in this proceeding is the adequacy of existing gas service. In other words, is the Texas gas purchased by Edison and Department required to serve a useful public purpose responsive to a public need? It is clear from this record that such gas is so required. Pacific Lighting has not met its responsibility to Edison and Department in furnishing gas service and as a result they have been unable to respond to the public demands for the burning of gas in their power plants in the Los Angeles basin. Both Edison and Department insist that the public convenience and necessity requires the issuance of a certificate to Gulf Pacific to engage in the transportation of the gas which they have purchased from Humble, as provided by Section 7(e) of the Natural Gas Act.

Pacific Lighting furnishes only a part of the gas requirements of Edison and Department and the gas supplied is subject to fluctuation and uncertainty. Even though Pacific Lighting's estimates of deliveries disclose a decline in service in relation to the total requirements of the electric companies, it claims the service that has been rendered and as proposed, is adequate. This claim of adequate service depends on the retention of a two-fuel economy in the Los Angeles basin, heretofore referred to, which Pacific Lighting supports. Edison and Department have not curtailed service only because they maintain a supply of oil as an alternative fuel. Under the proposal of Pacific Lighting, increased volumes of oil will of necessity have to be burned in the steam electric generating stations in the Los Angeles basin to meet the growing demands for electricity, in the face of Edison and Department's demand for additional volumes of gas in order to comply with the requirements of the APCD. In order to render the present service it is necessary for Edison and Department to have available over 11,000,000 barrels of oil storage capacity which is more than two times, on a fuel equivalent basis, than the storage that Pacific Lighting maintains. The Gulf Pacific project would not eliminate all existing oil storage facilities but their use would be curtailed to the extent that gas is available and additional facilities would not be required.

There is no question that Edison and Department can utilize in the manner proposed the gas which they seek to have transported plus additional gas, and that southern California's demand for gas will continue to grow over the years. This increase in market demand for gas will require additional supplies from out of state. The extent of this growth in demand for gas determines the impact on the future sales by Pacific Lighting, and on the demand for alternative fuels when gas is not available.

Population estimates published by the California Department of Finance show that the 14 southern California counties have increased by approximately 400,000 people per year from the years 1959 through 1963. There were 11.3 million residents in these counties as of July 1, 1963. By 1970, there will be 13.8 million people and by 1980, the population will reach 17.8 million people. Along with this increase in population, which brings an increase in total gas customers, is an increase in gas usage per customer. Personal income in southern California rose from $17.8 billion in 1953 to $30.1 billion in 1962, and is expected to increase to $46.2 billion by 1970. Likewise, value added by manufacture increased from $5.9 billion in 1953 to $10.4 billion in 1962 and is expected to increase to $16.4 billion by 1970. In addition to the rapid growth of electric load heretofore mentioned, the natural gas requirements in southern California have been estimated to be growing at an average rate of about 150 million cubic feet a day per year.

Various market estimates have been made by the parties. Gulf Pacific employed Stanford Research Institute to make an independent market survey of Pacific Lighting's total market requirements. The difference between the market estimates of Stanford Research and Pacific Lighting are as follows: (M^{3}cf)

	Total Market		Gross Steam Electric		Other Interruptible	
	Stanford	Pacific L.	Stanford	Pacific L.	Stanford	Pacific L.
1963	875	834	315	305	194	167
1964	928	893	343	337	202	175
1965	987	943	378	364	210	181
1966	1,047	1,002	414	397	218	185
1967	1,095	1,032	438	403	226	190
1968	1,126	1,071	446	421	234	195
1969	1,174	1,108	472	438	242	198
1970	1,232	1,164	508	472	250	201
1975	1,428	1,265	609	471	285	220

Based on Stanford Research market projections, Pacific Lighting will have a larger interruptible market available by the time that Gulf Pacific goes into operation in 1967 than the volumes of interruptible gas which it actually delivered in 1963 of 403 M^{3}cf. In 1964 the actual sendout was 445 M^{3}cf.

	Total Gross Interruptible Market	Gulf Pacific Load	Gross Interruptible Market Available to Pacific Lighting After Gulf Pacific
1967	664	118	546
1968	680	249	431
1969	714	262	452
1970	758	278	480
1971	788	288	500
1972	812	291	521
1973	841	292	549
1974	864	292	572
1975	893	292	601

Actual experience has demonstrated that Pacific Lighting has consistently understated its market requirements. The actual sendout has ranged up to 40 percent above its prior estimates. In the instant proceeding the actual sendout for 1963 and 1964 exceeds Pacific Lighting's estimates particularly in the interruptible market. Pacific Lighting did not make a market canvass of industrial plants that it serves to determine their fuel requirements. The gas sendout experienced in 1963 and 1964 discloses that even the estimates by Stanford Research are low. Almost 5 years of its projected growth in the classification "Other Interruptible Market" have already been realized in the first 2 years (1963 and 1964) of the projected period. The Department's load growth forecasts, used in this proceeding, are predicated on the Department's 1954 projection. It is anticipated that current forecasts now in preparation by Department will show the necessity of planning to meet even higher loads than those shown herein. Edison has kept its load growth projections current.

The above market requirements for gas do not take into consideration Edison's latest estimate of February 1965. In addition to this latest estimate the record includes Edison's forecast of load and resources of November 1963, and another as of April 1964. The April 1964 estimate included the load of California

Electric Power Company which was merged with Edison on December 31, 1963. No significant difference exists between the estimate of Stanford Research submitted in January 1964, and that made by Edison in 1963. Pacific Lighting did not use any of the above Edison estimates but relied upon its forecast of fossil fuel requirements attached to the application of Gulf Pacific which was filed February 1963, except that Pacific Lighting assumed that after 1970 Edison would meet its additional fuel requirements from nuclear or coal fired facilities. Stanford Research's projections assume approximately one-half of the incremental growth after 1970 will be met by gas and the other half by nuclear power or coal. These assumptions of Stanford Research and Pacific Lighting are not valid.

On a comparable basis a total estimated fossil fuel requirements of Edison as shown in the above forecasts and as used by Pacific Lighting are as follows:

[In M^3cf]

	Pacific Lighting	Edison's Estimates		
		November 1963	April 1964	February 1965
1966	243	257	280	278
1970	299	343	378	359
1975	299	457	505	580

Edison's San Onofre nuclear plant is scheduled to be in operation in 1968 and is considered by Edison in its estimates. Department has postponed the expected completion of its Malibu nuclear plant until 1968 or later. It will be after these plants are in operation and the results known before a final determination is made for construction of additional future nuclear plants. Even Edison's latest estimate as to the assumed future nuclear generation appears over optimistic for the reason that it lacks available sites for such plants. Opposition to nuclear plants caused Pacific Gas and Electric Company to withdraw its proposal to build the Bodega Bay nuclear plant, north of San Francisco.

Edison's latest estimate of required electric production and energy sources on which it must rely in meeting the demands of its system shows the Gulf Pacific project beginning operations in 1967 and for the years shown the assumed and uncommitted sources of electric energy are as follows:

[In M^3kwh]

	1967	1970	1975	1980	1985
Purchased	----------	3.3	2.0	2.0	2.0
Hydro	4.5	4.5	4.5	4.5	4.5
Nuclear	----------	2.4	2.7	2.7	2.7
Local Gas	4.0	2.4	2.4	2.4	2.4
Gulf Pacific	17.6	23.0	23.0	23.0	23.0
Assumed Coal	----------	6.2	13.5	13.5	13.5
Assumed Nuclear	----------	----------	4.7	4.7	4.7
Uncommitted	13.2	9.5	27.5	72.9	143.0
Total Requirement	39.3	51.3	80.3	125.7	195.8

Pacific Lighting and the Staff claim that this latest forecast of Edison's system load is unsupported. If this forecast is unsupported, then all of Pacific Lighting's industrial load is likewise unsupported as it has accepted the estimates of its other industrial customers without even knowing the basis for such estimates.

It should be noted in this regard that Pacific Lighting's forecast for 1963 for the oil companies was 3.1 billion cubic feet equivalent of fuel oil in southern

California, in contrast with 9.9 billion cubic feet equivalent of fuel oil that was reported to the APCD as having been actually burned in 1963 by the refineries alone in just Los Angeles County. The 3.1 figure was a reduction from 4.5 billion cubic feet equivalent that Pacific Lighting assumed for 1962.

Admittedly, the above forecast of February 1965 was revised upward to conform with a periodic routine review of load estimates made by Edison's planning department in the ordinary course of business. Edison like every large electric utility has a planning department. Construction decisions by Edison are predicated upon short-term load forecasts, and are not made until the latest date at which the project can be undertaken and completed in time to meet the projected load. These projections are made in the ordinary course of business and the forecasts submitted in this record are used for many other purposes including financial planning, sales planning, manpower staffing, distribution construction planning and equipment acquisition. Edison's load growth in the past decade has consistently outrun the forecasts. This experience indicates that a departure of 50 percent from earlier forecasts even over a 10-year span would not be unusual.

Similarly, the long-range forecasts, made in the ordinary course of business, extending over a much longer future time span are a necessary and routine activity of Edison's permanent staff organization. They are prepared for long-range planning studies. These long-range studies are capacity-oriented rather than time-oriented. They set general guidelines and indicate trends in the need for future generating sites, transmission line rights-of-way, substation location and general orders of magnitude for line capacities. They also serve as guidelines for financial and man power planning, as well as for many other company activities.

Edison in the matter of forecasting has tested a number of growth curves and the indication is that a curve which grows at a constant rate of growth best fits the historical data from 1946 to date. It is also mathematically indicated that, as Edison's territory is not reaching a saturation point, forecasting should be at a constant rate of growth. The high rate of growth in relation to estimates is illustrated by Edison's forecast made at the end of 1963, that in 1964 it would connect 75,000 new customers. The estimate was later raised to 85,000 and then 100,000 and it finally connected 120,000 new customers.

Edison needs additional gas over the volumes offered by Pacific Lighting. When the additions to its present plants now under construction are completed in 1967, the average fuel usage will be 832,000 Mcf per day and with the fifth year deliveries from the Gulf Pacific project of 574,000 Mcf per day, it will require above the Gulf Pacific maximum 258,000 Mcf per day. Additional sources of electrical energy will be required in 1968 and prior thereto commitments will have to be made for additional capacity. These rapidly mounting demands for electric service faced by Edison and also by Department must be met, and the issuance of a certificate to Gulf Pacific will supply a measure of relief to them in meeting such demands.

It is clear from this record that substantial additional volumes of gas are and will be required over the volumes to be furnished by Pacific Lighting and imported by Edison and Department. The future market and fuel requirements as estimated by Department and Edison as of February 1965, are reasonable and are accepted. Likewise, the future gas estimate of requirements by Stanford Research, modified by Edison's latest estimate, for southern California, is reasonable and is accepted.

Edison and Department are interested in other sources of electricity. They are canvassing the possibility of power generated from plants near the coal fields of Utah, New Mexico and Arizona; nuclear plants; and from an intertie with resources of electricity in the Pacific Northwest. Such activity is the result of their market surveys. This additional power, if it can be obtained, will not replace but supplement the generating plants in the Los Angeles basin. If they are not successful in securing these additional sources of power then their demands for gas plus the other gas requirements in southern California will require additional gas and pipeline capacity equal to the Gulf Pacific project (856 M^{2}cf per day) at least every 6 years.

Coal cannot be utilized in the existing plants which the Gulf Pacific project is designed to supply. The Los Angeles County Air Pollution Control District has made it clear that it will not tolerate coal burning in the Los Angeles basin. The engineering cost studies as to coal fired plants were compared with generating plants on new sites. Such plants cannot compete with the conventional gas fired plants at the existing generating stations. It is not contended by the coal industry that coal can or should be burned under boilers of the existing plants of Edison and Department in the Los Angeles basin area. Likewise, it has not been shown that the cost of generating electricity from nuclear plants is competitive with the cost of generating electricity at the existing plants of Edison and Department. Even Pacific Lighting's witness, as to nuclear plant costs, did not predict that after 1970 all additional generation by Edison and Department would be from nuclear or coal plants. His study was not related to the actual system of either Edison or Department.

The Staff and the Public Utilities Commission of California suggested an interconnection between the Gulf Pacific pipeline and the Pacific Lighting system for emergency service and the furnishing of gas not to exceed more than 30 days in any one year to Pacific Lighting to prevent curtailment of firm service to domestic and commercial users. No showing has been made in this proceeding of a need for such an arrangement. The record affirmatively discloses that such demands can be met by Pacific Lighting without the aid of Gulf Pacific.

There is competition between Pacific Lighting on the one hand and Edison and Department on the other for energy service to homes and buildings for cooking, water heating, space heating and air conditioning, and also for industrial uses. Edison and Department are now captive customers of Pacific Lighting for fuel in their steam electric plants in the Los Angeles basin. The restrictions on the uses of fuel oil by APCD, the cost of gas and level of gas service offered to Edison and Department by Pacific Lighting have an effect on ability to compete. Pacific Lighting is not consistent in its position as to competition, in that for its own service it argues that regulation is the answer while at the same time stressing the keen competition between its suppliers, El Paso and Transwestern, both regulated natural gas companies, which it has found "to be distinctly beneficial" as a result of alternative proposals.

Edison and Department have made it clear on this record that the interruptible service contemplated by Pacific Lighting for electric generation is unsatisfactory and their determination not to be limited to the Pacific Lighting supply arrangements as proposed by the so-called tailored supply program under which the level of service to them in relation to their requirements will decrease over the years. Pacific Lighting effectively controls the future gas supply in the Los Angeles area through the type of gas purchase contracts it has entered into with the California producers and as it is the only importer in southern California of out-of-state gas. So long as this continues Pacific Lighting can be indifferent in meeting the demands of the electric companies for desired gas service, thus, circumventing the requirement for the burning of gas in place of fuel oil in the Los Angeles basin. It is this policy of Pacific Lighting that has caused Edison and Department to take the position that if the Gulf Pacific application is not approved they will continue to seek independent gas supply in an attempt to forestall rising public opinion against their operations.

Cost Impact

Pacific Lighting takes the position that if Edison and Department are permitted, through the issuance of a certificate to Gulf Pacific, to transport the gas purchased from Humble, that it will have an adverse economic impact on its gas consumers. This position is concurred in by the Staff, El Paso and California Manufacturers Association, Transwestern and San Diego Gas and Electric Company. El Paso claims an additional impact in that it will not put into effect the reduction heretofore referred to of one-cent per Mcf. Department and Edison claim that there will be no adverse impact on the gas consumers, but rather that economic benefits will flow to them if the Gulf Pacific project is certificated. This position is concurred in by Gulf Pacific and Humble.

Pacific Lighting claims that the Gulf Pacific project will deprive it of $70,000,000 a year in revenues. It also claims that under the Gulf Pacific project, rather than service at its preferred level called the "tailored supply" and also referred to as the "optimum level," the gas consumers will suffer a financial detriment in excess of $150,000,000 in the first 10 years and the electric companies $100,000,000 during the same period, a total average of $25,000,000 a year. If Pacific Lighting were also to serve the entire market in an average temperature year (referred to as the 16th level), based on its own market forecast and cost of service, the cost to the consumer would be less with the Gulf Pacific project. It is this level of service which more nearly reflects the level contemplated by Rule 62.1 of the APCD and the level urgently needed to combat the growing air pollution problem in the Los Angeles basin. As pointed out by the Staff, Pacific Lighting's impact study discloses that at the 16th level for the 10-year period 1966 through 1975, the service would cost $23,576,000 more than at its preferred level of service with Gulf Pacific in operation and without Gulf Pacific in operation the cost would be $103,207,900. It is also noted that under Pacific Lighting's impact study with Gulf Pacific in operation, both at the preferred level and at the 16th level, a steady decline in unit revenues (per Mcf) required occurs for the 10-year period.

The Staff takes exception to Pacific Lighting's studies as being "unrealistic" and that the results of the "impact calculations are a function of the assumptions hypothesized." The Staff on the basis of Pacific Lighting's market requirements at the tailored supply level with the substitution of Gulf Pacific's forecast for the steam-electric load claims a difference of approximately 1-cent per Mcf with and without the Gulf Pacific project for the year 1970. Its studies for that year on four different cost assumptions show an increase at the load center ranging from $45,600,000 to $34,600,000 higher with Gulf Pacific.

El Paso supports Pacific Lighting's position. It also contends that the cost to it of delivery of 865,000 Mcf per day (El Paso 575,000 Mcf, Transwestern 290,000 Mcf) to the Los Angeles load center would, on an incremental basis, resolve in a savings to the gas consumers of $22,400,000 to $29,934,000 per year as compared with the Gulf Pacific project.

California Manufacturers Association did not submit any evidence and based on its own combination of studies claims that the Gulf Pacific project would cost the public $27,000,000 per year more than under the Pacific Lighting proposal and $18,500,000 per year if Pacific Lighting served at the 16th level.

Transwestern using the Staff's exhibits submitted at the hearing as a point of departure, claims that the annual adverse impact of the Gulf Pacific project would be $20,100,000 to $40,800,000 per year based on the 1968 and 1970 projections. Transwestern in its reply brief claims an impact at the Los Angeles load center on an incremental basis of $16,603,485 per year and on Transwestern's volumes alone of $10,089,330 per year.

San Diego Gas and Electric, based on Pacific Lighting's claimed impact of approximately $150,000,000, claims that its proportionate share will be $11,000,000 over the next 10 years.

Department, in evaluating the Gulf Pacific project, measuring it against the potential cost to Department of Pacific Lighting gas over the 20-year period, assumed that cost of Pacific Lighting gas could reasonably be expected to increase at an average rate of 1½ percent per year for the life of the Gulf Pacific contract. On this basis, Department could expect to save nearly $80,000,000 with Gulf Pacific, as compared to the 20-year cost of Pacific Lighting gas. Department claims that the 1½ percent is conservative when compared to historical increases. Department's cost for Pacific Lighting gas has gone up at an average of 3.6 percent annually, compounded, since 1951–52, while oil costs since 1949–50 have increased on an average of 2½ percent annually, compounded. Federal Government wholesale and consumer price indices have increased at an annual average rate from 1952 to 1964 of 5.9 percent and 5.2 percent, respectively.

It is Edison's position that it is not possible at this time to demonstrate the exact amount of savings which will accrue to Edison and its customers from the certification of the Gulf Pacific project, for these savings will be a function of the exact differential between the cost to Edison for the Gulf Pacific gas deliveries and the extent to which the alternative fuel costs to it will increase in the future over the 20-year period. Based upon its historical experience as reflected in this record and the inflationary pressures which are extant in the economy, it is Edison's conviction that the delivered cost of other gas to California over the next 20-year period will most certainly increase; and that the differential between those increased costs and the stable cost to it for the Gulf Pacific gas will likewise increase over the period. The resultant savings to Edison and to its electric customers from the Gulf Pacific project will be very substantial. Edison points out that based on claimed savings with Gulf Pacific for the year 1970 and utilizing Pacific Lighting's technique of multiplying such cost differential by its share of the Gulf Pacific volumes, the resulting savings to Edison alone for the 20-year period would exceed $300,000,000.

Each of the impact studies reflect many different and varying costs and assumed rates of return. One of the uncertainties in this proceeding as to cost comparisons is the position of the California Commission relating to the level of charges as between firm and interruptible service. Rates have never been established by the California Commission on the basis of incremental cost.

In addition to the costs of fuel to Edison and Department, other facility costs have to be considered such as facilities for the burning of fuel oil. Such costs increase with uncertainty as to the volumes of gas available and are magnified by the requirements that gas must be burned when available. This lack of ability to predict volumes of gas that will be made available requires the carrying of large inventories and commitments to purchase oil. Department's inventory for oil in 1962 exceeded $5,000,000.

Some of the cost calculations include cost of purchased gas based upon the Presiding Examiner's Initial Decision in the Area Rate Proceeding, *et al.*, Docket No. AR61–1, *et al.*, issued September 17, 1964, 34 FPC at p. 306. The decision was modified by the Commission's Opinion No. 468 on August 5, 1965, which was modified by Commission's Supplemental Opinion No. 468–A on October 4, 1965, 34 FPC 159, 1068. The effect of the Commission's Opinion on the cost of El Paso and Transwestern gas cannot be calculated from this record. El Paso on September 7, 1965, in its application for rehearing, which would be applicable to the Commission's Opinion, as modified, stated that it could not determine the applicable rate due to that portion of the order establishing quality standards and price adjustments reflecting quality differentials. It pointed out that it takes delivery of a daily average of some 2½ billion cubic feet of gas from the Permian area to all of which an analysis must apply. It further states that this volume is supplied by more than 50 major producers under rate schedules exceeding 670 in number and from hundreds of small producers each being a party with El Paso to at least one purchase contract. Further, such analysis would have to be made at some 1950 delivery points on its highly complex production and transmission system in the Permian basin.

The Bechtel Corporation at the request of Gulf Pacific undertook extensive studies concerning the question of impact, and its engineer with 40 years experience in the natural gas industry with personal familiarity with the Pacific Lighting's system from his 30 years with them as a Research Engineer, Distribution Engineer, Executive Engineer, Vice President in Charge of Engineering, Construction and Operations, and as a Director of Southern Counties Gas Company of California pointed out that with the Gulf Pacific project there would continue to be an adequate market to permit Pacific Lighting, with its existing storage, to operate without any long-term adverse impact if it were to tailor gas acquisitions to the remaining market. Pacific Lighting's witness testified that such tailoring can be readily done.

Many of the costs shown were determined from unsupported assumptions. However, it is not necessary to analyze all of the various cost estimates made, as each result depends primarily on the assumed market requirements. On the basis of the market requirements heretofore found reasonable no adverse economic impact will occur to the customers of Pacific Lighting with the certification of the Gulf Pacific project. The demands for gas in southern California are such that in addition to the importation of gas by Edison and Department, the volumes of gas proposed to be made available by Transwestern are required and could be also certified if Transwestern's supply was adequate which it is not. Thus, Pacific Lighting will suffer no impairment of its ability to serve its firm customers by the granting of the certificate to Gulf Pacific to transport the gas for Edison and Department. As to the other industrial customers, the granting of a certificate to Gulf Pacific will be a benefit to Pacific Lighting in the meeting of their demands for gas.

El Paso contends that the cost of gas to Edison and Department under the Gulf Pacific project should be compared with its incremental costs to deliver the same quantity of gas. This is not a proper comparison. The El Paso proposal is a new service the same as the Gulf Pacific project. Thus, any comparison must be based on cost to Edison and Department. Aside from its supply being inadequate, El Paso has not presented a complete project to deliver 865,000 Mcf a day. It depends upon volumes from Transwestern and that company has not filed an application to deliver gas to El Paso. While Pacific Lighting is silent as to the El Paso proposal, Transwestern gas, even if available, cannot be considered as such volumes are required by Pacific Lighting to meet its own requirements. In addition, El Paso's costs do not reflect future demands for gas off its system and the additional costs of required facilities relating thereto. Even El Paso's stated costs are uncertain by reason of its refusal to state a required rate of return. It also refuses to offer Edison and Department a contract or even quote rates which it would charge for gas. If field prices increase or income does not, in its opinion, result in a reasonable rate of return, El Paso will apply for a rate increase.

The scheduled prices to Edison and Department under the Humble gas purchase contracts are fixed for the 20-year period covered by the contracts and the transportation cost under the Gulf Pacific transportation contracts is based on a cost of service formula subject to the jurisdiction of the Federal Power Commission, and such prices can reasonably be estimated to average about 34½ cents per Mcf over the 20-year contract period. The fact that Humble has guaranteed the deliveries on each day of the full contract volumes over the entire 20-year period covered by the contracts make such average costs readily predictable because of the absence of any need to allow, as in other cases, for the cost of additional gathering facilities or higher costs of new supplies brought in to maintain deliverability.

In contrast to the Gulf Pacific project price assurances for the electric utilities, Pacific Lighting offers no assurance that the electric utilities will get the gas in the volumes proposed to be supplied, and no assurance as to what the price to them of that gas will be, if and when it becomes available. Admittedly, in the event of higher costs experienced in the future by the gas suppliers because of inflationary pressures or otherwise, future prices will increase.

The Gulf Pacific line instead of having an adverse effect will be a decided advantage to Pacific Lighting as a possible supplier of gas in competition with El Paso and Transwestern. The advantages of competition claimed by Pacific Lighting as between its present suppliers will increase to its benefit. It is noted that after the Gulf Pacific application was filed on February 12, 1963, that on November 1, 1963, El Paso stipulated and agreed to a settlement reducing its rates claimed to be reasonable at the time of filing, in four rate increases initiated on October 14, 1954, June 28, 1957, January 12, 1959 and February 23, 1960, and as a result Southern California Gas Company and Southern Counties Gas Company of California benefited by $66,637,378 in refunds. Commission Opinion approving the settlement was issued December 4, 1963, 30 FPC 1400. It is inconceivable that the awareness of the effort of Edison and Department to secure an additional source of gas supply did not have an affect on Pacific Lighting and its suppliers of gas, El Paso and Transwestern.

The argument is advanced that it is not in the public interest to have unregulated sales of gas. Congress has not made such a determination, but to the contrary. In *Panhandle Eastern Pipe Line Company* v. *Public Service Commission of Indiana, et al.*, 332 U.S. 507, 516 (1947), Justice Rutledge, for the court, stated that the omission of reference in Section 1(b) of the Natural Gas Act, to direct sales for consumptive use was not inadvertent but deliberate. In *Federal Power Commission* v. *Transcontinental Gas Pipe Line Corp.*, 365 U.S. 1, 23, 24 (1961), Chief Justice Warren, for the court, pointed out that the Commission has, on many occasions, held that the transportation of gas sold directly to the consumer is in the public interest when the reasons advanced by the applicant have been sufficiently strong, and stated that the term "public convenience and necessity" connotes a flexible balancing process, in the course of which all the factors are weighed prior to final determination. Only if the Gulf Pacific project would have an adverse effect on the public without counterbalancing benefits, could it be denied. In this proceeding, it is clear that the gas purchased by Edison and Department from Humble will be beneficial to the inhabitants of the Los Angeles basin and is required by the public interest.

The California Gas Producers Association and Oil Producers Agency of California in opposition to the Gulf Pacific and El Paso projects, state:

> In sum, the California producers oppose certification or construction of either the Gulf Pacific project or El Paso's alternative amended Chaco-Needles project at the present time. Additional supplies of California produced gas are available to meet the present level of California market requirements. Two existing out-of-state pipelines—Transwestern and PG&E's Canadian line—are capable of 50% or more expansion to meet further increases in California natural gas market needs at low incremental expansion costs. If additional out-of-state supplies are to be certificated for delivery to California, the California producers ask that an orderly plan be followed, relying on the present level of supplies of California gas, and gradually expanding to full capacity the existing unfilled Transwestern and Pacific Gas Transmission pipelines now serving California before authorization is granted to construct any major new natural gas pipelines to import new volumes of out-of-state natural gas into California. In the event that either Gulf Pacific or El Paso's alternative amended Chaco-Needles proposal is certificated, the Commission must recognize the need for deferring PG&E's additional Canadian imports for several years. In addition, the Commission should provide that the initial level of any Gulf Pacific, or El Paso amended Chaco-Needles, deliveries should not exceed 375,000 Mcf per day starting in the Fall of 1967, with increases in an authorized delivery level thereafter of not more than 125,000 Mcf per day per year.

The short answer to these contentions of the California Gas and Oil Producers is that the evidence fails to support such conclusions.

Statements of position in opposition to the application of Gulf Pacific have been filed by interveners who did not participate in this proceeding, namely: Arizona Corporation Commission, New Mexico Public Service Commission, Pennsylvania Public Utility Commission, Permian Basin Petroleum Association, Public Service Commission of the State of New York, and San Diego Gas and Electric Company. The determination of the various positions is found in the foregoing decision, except for the position that the Humble gas should be reserved for the eastern and central markets of the United States. No other natural-gas company has appeared in this proceeding seeking the Humble gas or claiming the need for such gas to meet its demands. Further, there is no basis in the record for a determination that a greater need exists in the eastern and central markets for such gas than exists in southern California.

ADDITIONAL FINDINGS AND CONCLUSIONS

Upon consideration of the record and the briefs filed in this proceeding, it is found and concluded in addition to the findings and conclusions heretofore stated that:

(1) The long term needs for natural gas in Southern California requires the issuance of a certificate of public convenience and necessity to Gulf Pacific Pipeline Company.

(2) It is in the public interest that a certificate of public convenience and necessity be issued to Gulf Pacific Pipeline Company authorizing the transportation of gas for Southern California Edison Company and Department of Water and Power of the City of Los Angeles, for use as fuel in their steam electric generating plants located in the Los Angeles basin and such certificate outweighs any detriment that might result by its denial.

(3) Gulf Pacific Pipeline Company will be a "natural-gas company" within the meaning of the Natural Gas Act as the facilities hereinbefore referred to will be used for the transportation of natural gas in interstate commerce.

(4) Gulf Pacific Pipeline Company's proposed transportation service is both feasible and adequate and the gas supply dedicated to Southern California Edison Company and Department of Water and Power is sufficient to support the transportation as proposed.

(5) The characteristics of Gulf Pacific Pipeline Company's rate structure set forth in the contracts with Southern California Edison Company and Department of Water and Power requires modification so that the charges will be based upon a 6 percent rate of return on a net investment rate base, plus working capital, and at this time the rate of return is reasonable for Gulf Pacific Pipeline Company.

(6) Gulf Pacific Pipeline Company is a qualified applicant and is able and willing properly to do the acts and to perform the services and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(7) The construction and operation of the facilities proposed by Gulf Pacific Pipeline Company and the transportation of gas proposed to be made through such facilities by Gulf Pacific Pipeline Company are required by the present and future public convenience and necessity and a certificate should be issued on the terms and conditions of this Order, which terms and conditions are reasonable and required by the public convenience and necessity.

(8) The required findings under Section 7(e) of the Natural Gas Act cannot be made as to the applications of El Paso Natural Gas Company and Transwestern Pipeline Company in that neither are able nor willing properly to do the acts or perform the service proposed.

(9) The public convenience and necessity does not permit the issuance of certificates to El Paso Natural Gas Company and Transwestern Pipeline Company as applied for and their applications should be denied.

ORDER

WHEREFORE, *It Is Ordered*, subject to review by the Commission:

(A) A certificate of public convenience and necessity hereby is issued to Gulf Pacific Pipeline Company for the construction and operation of the facilities referred to above, and as more fully described in the application in this proceeding, and the transportation of natural gas in interstate commerce for Southern California Edison Company and Department of Water and Power of the City of Los Angeles, California, subject to and upon the terms and conditions of this Order.

(B) The terms and conditions attached to the issuance of the certificate of public convenience and necessity hereby issued to Gulf Pacific Pipeline Company are as follows:

(i) The gas transportation contracts between Gulf Pacific Pipeline Company and Southern California Edison Company and Department of Water and Power of the City of Los Angeles shall be modified within 30 days from the issuance of this certificate by the Commission, to provide for the earnings of Gulf Pacific Pipeline Company not to exceed a 6 percent return on its net investment rate base, plus working capital.

(ii) The general terms and conditions set forth in Paragraphs (a), (c) and (e) of Section 157.20 of the Commission's Regulations under the Natural Gas

Act shall attach to the issuance of the certificate to Gulf Pacific Pipeline Company.

(C) The issuance of this certificate of public convenience and necessity, is without prejudice to any findings or orders which may hereafter be made by the Commission in any proceeding involving accounting, depreciation, determination of costs, rates, services, or any other matter, instituted by or against Gulf Pacific Pipeline Company, or its affiliated companies.

(D) The applications of El Paso Natural Gas Company and Transwestern Pipeline Company above referred to are hereby denied.

Alvin A. Kurtz,
Presiding Examiner.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

UNITED GAS PIPE LINE COMPANY AND SOUTHERN NATURAL GAS COMPANY, DOCKET NO. CP66-352

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued July 26, 1966)

On May 3, 1966, United Gas Pipe Line Company (United) and Southern Natural Gas Company (Southern) (sometimes hereinafter referred to jointly as Applicants) filed in Docket No. CP66-352 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the replacement and rearrangement of existing metering facilities at an existing point of interconnection between Applicants' respective systems in West Carroll Parish, Louisiana, and the exchange and delivery of natural gas, all as more fully set forth in the joint application in this proceeding.

Pursuant to an exchange agreement, dated March 10, 1966, between Applicants, Southern, at United's request, will deliver natural gas at the West Carroll Parish interconnection in such daily quantities as United may require from time to time and, at such times as Southern delivers gas to United, United will deliver, at an existing point of interconnection between their respective systems near Kosciusko, Mississippi, corresponding quantities of gas to offset the quantities Southern is then delivering to United. Applicants state that service by United to its Delhi-Oak Grove-Lake Providence, Louisiana, area can be protected without disruption to Southern's operations by the proposed exchange project.

The application recites that United will own, operate, and maintain any and all facilities necessary to effect the exchange of gas, provided, that Southern will own any tap and flange connections that may be existing on its facilities at the West Carroll Parish interconnection. The total estimated cost of the proposed connection is $2,980, which cost will be financed by United from funds on hand.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on July 21, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the joint application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, United Gas Pipe Line Company, a Delaware corporation having its principal place of business in Shreveport, Louisiana, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of January 20, 1942, in Docket No. G-216 (3 FPC 3).

(2) Applicant, Southern Natural Gas Company, a Delaware corporation having its principal place of business in Birmingham, Alabama, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of October 6, 1942, in Docket No. G-296 (3 FPC 822).

(3) The facilities hereinbefore described, as more fully described in the joint application in this proceeding, are proposed to be used in the exchange and delivery of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof and the proposed exchange and delivery of natural gas by Applicants are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(4) Applicants are able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(5) The construction and operation of the subject facilities and the proposed exchange and delivery of natural gas by Applicants are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(6) Public convenience and necessity require that the certificate hereinafter issued and the rights granted thereunder be conditioned upon Applicants' compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(3), (c)(4) and (e) of Section 157.20 of said Regulations.

(7) Applicants should make the appropriate rate filings covering the subject exchange hereinafter authorized.

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing joint Applicants, United Gas Pipe Line Company and Southern Natural Gas Company, to construct and operate the proposed facilities and to exchange and deliver natural gas by means of the proposed facilities and the existing facilities as hereinbefore described, all as more fully described in the joint application in this proceeding, upon the terms and conditions of this order.

(B) The certficate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(3), (c)(4) and (e) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be constructed and placed in actual operation and the exchange and delivery of natural gas authorized in paragraph (A) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations, within six months from the date on which this order issues.

(D) Applicants shall make the appropriate rate filings covering the exchange authorized in paragraph (A) above.

OPINION NO. 501

AMERADA PETROLEUM CORPORATION, ET AL., DOCKET NO. CI62-1544, ET AL.*

OPINION AND ORDER REQUIRING REFUNDS

(Issued July 27, 1966)

Syllabus

1. Fact that producers reasonably and in good faith believed they were entitled to collect their rates without being subject to refund obligation is insufficient to avoid such obligation. P. 311.
2. Budget and planning activities in reliance upon right to retain full amounts collected will not suffice to prevent refund requirement, although special provisions for delayed repayment may be made. P. 311.
3. Burden of preparing revised tax returns is insufficient to avoid refund obligation. P. 311.
4. Argument that distributors have failed or may fail to pass refunds to consumers is no ground for defeating producers' refund obligation. P. 311.
5. Commission *adheres* to principles established in *Skelly* and subsequent line of cases, respecting unrecoupable amounts paid out in taxes and royalties. P. 312.
6. Statements of producers in their briefs having been accepted at face value, there is no need to reopen proceeding for introduction of additional evidence. P. 312.
7. In a proceeding under Section 7 of the Natural Gas Act, Commission *orders* refunds of amounts collected in excess of "in-line" price where producers initiated deliveries under unconditioned temporary authorizations.

Commissioner O'Connor *dissenting*.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

BLACK, *Commissioner:*

This certificate proceeding under Section 7 of the Natural Gas Act (Act) originally involved 32 separate applications by 22 producers for initial sales of natural gas in Texas Railroad Commission District No. 4 to various pipelines for resale in interstate commerce for prices ranging from 15.944¢ per Mcf to 19.795¢ per Mcf. Temporary certificates at prices not exceeding 18¢ per Mcf were issued. Refund conditions, included in the temporary certificates in eight of the dockets, would require the producer to refund any amount collected in excess of the initial price set forth in the permanent certificate. In the remaining dockets no refund conditions were imposed in the certificates.

By our Opinion No. 422 issued March 23, 1964 and Opinion No. 422-A issued May 27, 1964, 31 FPC 623, 1315, we granted permanent certificates of public convenience and necessity to the applicants. Each of these certificates was conditioned upon an initial price of 16¢ per Mcf which we found to be the "in-line" price for Texas District No. 4 at the time of execution of the contracts. In those dockets where the producers had commenced delivery pursuant to temporary certificates containing refund conditions we ordered refunds to be made. In the

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*Additional parties set forth in Appendix A attached hereto. See order issued September 2, 1966 granting rehearing. Confirmed and motions for stay denied by Opinion No. 501-A issued December 6, 1966, 36 FPC 962. Set aside, *Sunray DX Oil Co. v. F.P.C.*, 376 F. 2d 578 (CA10-1967); Affirmed, 391 U.S. 9 (1968).

remaining dockets, where no specific refund obligation was included in the temporary certificates, we deferred decision.[1]

The refund issue in this proceeding arose out of the decision of the Court of Appeals for the District of Columbia[2] on appeal from our decision in *Skelly Oil Company*.[3] In the *Skelly* case we had determined that producers operating under unconditioned certificates should not be required to make refunds of amounts collected in excess of the determined "in-line" price. The Court of Appeals, however, reversed our decision and remanded the case with instructions to make, with the assistance of the parties, "a broader and more penetrating analysis of the factors pro and con a refund, and its amount or extent, in arriving at an equitable conclusion." (329 F. 2d 242, 249). While petitions for certiorari were denied by the Supreme Court in the *Skelly* case, similar issues were again raised in petitions for certiorari filed in *United Gas Improvement Co.* v. *Callery Properties, Inc.*, 335 F. 2d 1004 (CA5–1964). After the Supreme Court granted certiorari in the *Callery Properties* case on March 8, 1965, our order of March 29, 1965, 33 FPC 643, in this proceeding provided that "Since it now appears that the refund issue will be reviewed and clarified by the Supreme Court we conclude that no further action can be taken in this proceeding until after the Court has issued a decision in the *Callery* case." On December 7, 1965, the Supreme Court reversed the decision of the Circuit Court of Appeals in the *Callery* case. *United Gas Improvement Co.* v. *Callery Properties, Inc.*, 382 U.S. 223. "It is now established that the Commission had both the power and the duty to require refunds of amounts collected in excess of the 'in-line' price in the absence of a showing that it would be inequitable to require refunds of either all or part of the excess amounts collected." *Skelly Oil Company*, Opinion No. 492 (June 1, 1966, 35 FPC 849).

In Opinion No. 422 in this proceeding we summarized the standard set by the Circuit Court of Appeals in the *Skelly* case as follows:

> The Court has also stated, however, that the existence of the power to order refunds at the time of permanent certifications does not mean that its exercise is mandatory. The standard to be followed is the standard of equity, and the decision as to whether refunds should be ordered is to turn on equitable considerations. The existence of a refund requirement is one such consideration but is not controlling; the public interest factors must also be weighed and may be adequate to offset the absence of an explicit condition (*supra*, p. 639).

To permit a more detailed consideration of the equitable factors, the Commission deferred its decision on the refund issue to give the parties an opportunity to brief the issue in light of the Court's opinion in the *Skelly* case. Briefs were filed by Texaco Inc., Standard Oil Company of Texas (Sotex), George H. Coates, Lamar Hunt, Sun Oil Company, New York Public Service Commission, Pennsylvania Public Utility Commission, and by Brooklyn Union Gas Company, Long Island Lighting Company, Philadelphia Electric Company and The United Gas Improvement Company, American Petrofina Company of Texas, Jake L. Hamon, and Humble Oil & Refining Company have adopted the brief filed by Texaco Inc. Reply briefs have been filed by Texaco Inc., Sun Oil Company, Clark Fuel

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[1] Paragraph (G) of the order accompanying Opinion No. 422.

[2] *P.S.C. of New York* v. *F.P.C.*, No. 17582, *et al.*, 329 F. 2d 242, (CADC–1964), cert. denied 377 U.S. 963, 1964.

[3] Opinion No. 362, issued August 30, 1962, 28 FPC 401, modified on rehearing by Opinion No. 362–A, 28 FPC 1065. Two dockets (Jake L. Hamon (Operator), *et al.*, No. CI61–922, and Jake L. Hamon, No. CI61–1745) were severed and settlement approved by order issued November 5, 1965, 34 FPC 1243. In three other dockets, no amounts were collected in excess of the "in-line" price.

Producing Company (Operator), *et al.*, and Jake L. Hamon. Motions for an evidentiary hearing on the question of refunds were filed by Texaco Inc., *et al.*, Sun Oil Company and Clark Fuel Producing Company.

The producers' briefs present arguments which fall into two general classifications: first, arguments directed to the Commission's authority to order refunds of amounts collected under unconditioned temporary authorizations; and, second, arguments dealing with the various equitable considerations. The cited cases have established the Commission's power to order refunds under these circumstances; the issue to be determined is whether it is equitable for us to do so.

The producer's major arguments on the equitable side may be summarized as follows:

(1) The ordering of refunds after issuing temporary certificates without refund conditions would result in entrapment, since the producers had every reason to be assured that no refunds would be required. Budgeting and planning have been carried out in reliance on the Commission's indicated policy of no refunds without refund conditions.

(2) Payments of state taxes and royalties, based on the sales price of the gas, were made without protest or provision for recoupment in reasonable reliance upon the price in the unconditioned temporary certificates. The tax overpayments will have to be assumed as a loss; and the recovery of royalties will be a very difficult and in most instances, an impossible task.

(3) The doctrine of mutuality argues against ordering refunds. Amounts collected through excessive rates during the interim period of the temporaries are offset when the producers are required to sell their gas under conditions which prohibit rate increases and thus prevent producers from even collecting subject to refund what they consider a just and reasonable rate.

(4) The distributing companies failed to refund to consumers amounts received from pipeline suppliers pursuant to Commission refund orders, and refunds to them would be windfalls.

(5) There is a need to be able to rely on the Commission's orders. The basic financial stability of the producing industry requires that producers be assured that amounts collected under filed rates without refund condition may be retained and further invested in business operations. To make the provisions of temporary certificates subject to retroactive adjustment would create a serious restraint on the alienation of producing properties and adversely affect the future financing of industry drilling programs.

It is implicit in the opinion of the Supreme Court in the *Callery* case, as well as the opinion of the Court of Appeals in the *Skelly* case, that the fact that the producers reasonably and in good faith believed that they were entitled to collect their rates without being subject to a refund obligation is insufficient, by itself, to avoid the refund obligation. To the same effect are our decisions in *Skelly Oil Company*, Opinion No. 492 (June 1, 1966), amended and confirmed Opinion No. 492-A (July 21, 1966, *supra*, p. 143); *Hawkins & Hawkins*, Opinion No. 498, (July 22, 1966, *supra*, p. 149); *Turnbull & Zoch Drilling Co.*, Opinion No. 499, (July 25, 1966, *supra*, p. 164). Nor are the budgeting and planning activities of the producers, in reliance upon their right to retain the full rates collected, sufficient to prevent refunds being required, although special provisions for delayed repayment may be made if this is shown to be necessary. The burden of preparing revised tax returns would necessarily be present in each case, and is insufficient, without more, to avoid the refund obligation.

The argument that distributors have failed or may fail to pass refunds received by them on to the ultimate consumers is not a ground for defeating the refund obligation of the producers, although it may be a ground for requiring that refunds be placed in escrow or that the producer retain them, paying interest thereon, until suitable arrangements can be made to see that refunds are flowed through to the public, either in the form of direct refunds or of lower rates. *Skelly Oil Company*, Opinion No. 492 (June 1, 1966), amended and confirmed Opinion No. 492-A (July 21, 1966); *Hawkins & Hawkins*, Opinion No. 498 (July 22, 1966); *Turnbull & Zoch Drilling Co.*, Opinion No. 499, (July 25, 1966).

It would be inequitable, however, and contrary to the cited cases for this Commission to order producers to make refunds of amounts which have been paid out in taxes or in royalties in reasonable reliance upon a prior Commission order, and which amounts cannot now be recouped. It appears from prior cases that recovery of royalties so paid out would be so expensive as to be impractical. *Skelly Oil Company*, Opinion No. 492 (June 1, 1966), amended and confirmed Opinion No. 492-A (July 21, 1966); *Hawkins & Hawkins*, Opinion No. 498 (July 22, 1966). These cases also determined that refunds of state production taxes, paid out in reasonable reliance upon a Commission order, should not be ordered except to the extent such taxes are recoupable by credit or otherwise. In all these cases it was determined that from February 1, 1964, one week after the decision of the Court of Appeals in *Skelly* that refunds might be ordered under these circumstances, no producer was entitled as a matter of equity to assume that no refunds would be ordered. To these established principles we adhere.

Accordingly, the producers listed in Appendix A hereto will be ordered to make refunds of all amounts collected in excess of 16 cents per Mcf while operating under temporary certificates, with the exception of royalty and overriding royalty payments made prior to February 1, 1964, to the extent attributable to the excess amounts collected, and with the further exception of state production taxes paid prior to February 1, 1964, to the extent attributable to the excess amounts collected, and not now recoupable by credit or otherwise.

There appears to be no need for reopening the proceedings to permit the introduction of additional evidence. The statements of the producers in their briefs have been accepted at face value for the purposes of this proceeding. The motions to reopen the proceedings will be denied.

The Commission orders:

(A) As a condition of the certificate granted in each of the dockets listed in Appendix A hereto, each certificate holder shall file within 60 days of the effective date of this order a report of the amounts collected by said certificate holder in excess of 16 cents per Mcf at 14.65 psia, less any amounts specified in ordering paragraphs (B), and (C). Interest to the date of this order shall be added at the rate of 6 percent per annum on all such excess amounts collected prior to March 1, 1960, and at the rate of 7 percent per annum on all such excess amounts collected on or after March 1, 1960, except that no interest shall be included on refunds to the extent state production taxes, paid but recoupable, are included in such refunds, and interest shall not exceed the legal rate recoverable by the certificate holder on that portion of the amount of any refund which was in fact paid over by certificate holder, not for his own benefit, to any third party prior to February 1, 1964.

(B) Each certificate holder listed in Appendix A hereto, may omit from the reports required by ordering paragraph (A) any amount by which payments made before February 1, 1964, of royalties and overriding royalties were increased by reason of the difference between the price of 16 cents per Mcf and the rates actually collected, and any amounts by which payments made before February 1, 1964, of state production taxes, not recoupable by credit or in any other manner, were increased by reason of said difference.

(C) The reports required by ordering paragraph (A) shall not include excess rates collected during any period when an increased rate in the docket in question was subject to possible refund in proceedings pursuant to Section 4(e) of the Natural Gas Act.

(D) Notwithstanding any other provision of this order, any state production taxes paid prior to February 1, 1964 by any party listed in Appendix A hereto, shall be required to be subject to the provisions of ordering paragraph (H) and the interest payments required thereby only from the time and to the extent that such excess tax payments may be recouped by credit or otherwise.

(E) Each report required by ordering paragraph (A) shall set forth the amount of refund related to each subject rate schedule (showing separately the principal and applicable interest, with the reasons for differing rates of interest on different portions of the principal), the basis used for such determination, the period covered and a letter from the purchaser of the gas agreeing to the correctness of the amounts.

(F) Copies of all filings made pursuant to ordering paragraph (A) hereof shall be served at the time of filing upon all participants who within 45 days of the issuance of this order shall so request in writing, and upon the purchaser of the gas.

(G) Each certificate holder listed in Appendix A hereto shall retain the amounts shown in the reports required under ordering paragraph (A) subject to further order of the Commission directing the disposition of those amounts. If any such certificate holder elects to commingle these retained refunds with its general assets and use them for its corporate purposes, it shall pay interest thereon at the rate of 5¾ percent per annum on all funds thus available from the date of the filing of the refund report to the date on which they are paid over to the person ultimately determined to be entitled thereto in a final order of the Commission. If the certificate holder elects to deposit the retained refunds in a special escrow account, the certificate holder shall tender for filing on or before the date of the filing of the refund report an executed Escrow Agreement, conditioned as set out below accompanied by certificate showing service of a copy thereof upon each of its jurisdictional customers. Unless notified to the contrary by the Secretary within 30 days from the date of filing thereof, the Escrow Agreement shall be entered into between the certificate holder and any bank or trust company used as a depositor for funds of the United States Government and the agreement shall be conditioned as follows:

(1) Certificate holder, the bank or trust company, and the successors and assigns of each, shall be held and formally bound unto the Federal Power Commission for the use and benefit of those entitled thereto, with respect to all amounts and the interest thereon deposited in a special escrow account, subject to such Agreement, and such bank or trust company shall be bound to pay over to such person or persons as may be identified and designated by final order of the Commission and in such manner as may be therein specified, all or any portion of such deposits and the interest thereon.

(2) The bank or trust company may invest and reinvest such deposits in any short-term indebtedness of the United States or an agency thereof or in any form of obligation guaranteed by the United States which is, respectively, payable within 120 days as the said bank or trust company in the exercise of its sound discretion may select.

(3) Such bank or trust company shall be liable only for such interest as the invested funds described in paragraph (2) above will earn and no other interest may be collected from it.

(4) Such bank or trust company shall be entitled to such compensation as is fair, reasonable and customary for its services as such, which compensation shall be paid out of the escrow account to such bank or trust company. Said bank or trust company shall likewise be entitled to reimbursement for its reasonable expenses necessarily incurred in the administration of this escrow account, which reimbursement shall be made out of the escrow account.

(5) Such bank or trust company shall report to the Secretary of this Commission quarterly, certifying the amount deposited in the trust account for the quarterly period.

(H) Any certificate holder may apply to the Commission, within 15 days of any order directing payment of any or all amounts held by any certificate holder pursuant to ordering paragraph (G), for leave to make payments over a period of time in discharge of its refund obligation.

(I) The motions for a hearing for this presentation of evidence are hereby denied.

Commissioner O'Connor *dissents* for the reasons expressed in his dissents in Skelly Oil Company, *et al.*, Opinion No. 492 (June 1, 1966, 35 FPC at p. 859), and H. L. Hawkins & H. L. Hawkins, Jr. (Operator), *et al.*, Opinion No. 498 (July 22, 1966, *supra*, at p. 156).

APPENDIX A

	Docket Nos.
American Petrofina Company of Texas	CI61–1418
Cherosage Enterprises Inc., *et al.* (Now: Patchin-Wilmouth Industries Inc., *et al.*)	CI62–1459
Clark Fuel Producing Company (Operator), *et al*	CI61–1279
Coates, George H	CI62–255
Cox, Edwin I	CI62–621
H. H. Phillips, Jr., *et al*	CI62–954
Hudson, W. H. (Operator), *et al*	CI62–1074
Humble Oil & Refining Company	CI62–704
Hunt, Lamar	CI61–730
Sohio Petroleum Company (Operator), *et al.* (formerly Katz Oil Company (Operator), *et al.*)	CI61–627
McWood Corporation	CI61–839
Do	CI62–703
Monsanto Company	CI61–876
Standard Oil Company of Texas (Division of California Oil Company)	CI61–1377
Do	CI62–1140
Sun Oil Company	CI61–657
Do	CI61–1101
Do	CI61–1584
Do	CI61–956
Sunray Mid-Continent Oil Company (Name changed to Sunray DX Oil Co.)	CI61–1103
Texaco Inc	CI61–961
Do	CI61–1757

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

MISSISSIPPI RIVER TRANSMISSION CORPORATION, DOCKET NO. CP66-365

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued July 27, 1966)

On May 13, 1966, Mississippi River Transmission Corporation (Applicant) filed in Docket No. CP66-365 an application pursuant to Section 7(c) of the Natural Gas Act, as implemented by Section 157.7(b) of the Regulations under the Act, for a certificate of public convenience and necessity authorizing the construction, during the twelve months period commencing June 1, 1966, and the operation of certain natural gas facilities to enable Applicant to take into its pipeline system natural gas which will be purchased from producers and other similar sellers in the general area of Applicant's existing pipeline system, all as more fully set forth in the application in this proceeding.

The purpose of this "budget-type" application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system supplies of natural gas in various producing areas generally coextensive with said system.

The total cost of the facilities covered by this application will not exceed a maximum of $500,000, with no single project to exceed a cost of $125,000, which costs are proposed to be financed from funds on hand and funds generated from Applicant's operations.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on July 21, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Mississippi River Transmission Corporation, a Delaware corporation having its principal place of business in St. Louis, Missouri, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of November 29, 1960, in Docket No. CP60-95 (24 FPC 1020).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Applicant should submit within 60 days after the expiration of the authorization granted hereinafter, a statement in compliance with Sec-

tion 157.7(b)(3) of the Commission's Regulations under the Natural Gas Act.

(6) Public convenience and necessity require that the certificate hereinafter issued and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e) and (f) of Section 157.20 of said Regulations.

(7) The authorization hereinafter granted should be limited to construction during the twelve months period commencing June 1, 1966, and the total expenditures for facilities to be constructed thereunder should be limited to a maximum of $500,000, with no single project to exceed a cost of $125,000.

The Commission orders:

(A) Upon the terms and conditions of this order, a certificate of public convenience and necessity is issued authorizing Applicant, Mississippi River Transmission Corporation, to construct during the twelve months period commencing June 1, 1966, the proposed facilities hereinbefore described, as more fully described in the application in this proceeding, and to operate such facilities only to take natural gas supplies from producers and other similar sellers who have received authorization from the Commission to sell natural gas to said Applicant.

(B) Applicant shall submit within 60 days after the expiration of the authorization granted by paragraph (A) above a statement in compliance with Section 157.7(b)(3) of the Commission's Regulations under the Natural Gas Act.

(C) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e) and (f) of Section 157.20 of said Regulations.

(D) The authorization granted in paragraph (A) above is limited to construction during the twelve months period commencing June 1, 1966, and the total expenditures for facilities to be constructed thereunder are limited to a maximum of $500,000, with no single project to exceed a cost of $125,000.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

NORTHERN STATES POWER COMPANY, DOCKET NO. E-7295

SUPPLEMENTAL ORDER AUTHORIZING ISSUANCE OF FIRST MORTGAGE BONDS

(Issued July 27, 1966)

By order issued July 8, 1966, *supra*, p. 42, in the above-entitled matter, the Commission authorized Northern States Power Company (Applicant) to issue and sell at competitive bidding $45,000,000, principal amount of First Mortgage Bonds, due 1996, subject among others, to the provisions set forth in paragraph (B) of that order as follows:

(i) Applicant shall have amended its application pursuant to the requirements of Section 34.2(g) of the Commission's Regulations under the Federal Power Act relating to compliance with competitive bidding requirements, and Section 34.2(h)(1) of those Regulations relating to affiliation, and shall have either filed such amendments or shall have mailed them and advised the Commission by telephone and telegraph, as contemplated in Section 34.9 of the Regulations.

(ii) The Commission, by further order, shall have approved the price to be received by Applicant for the proposed issuance of Bonds and the interest rate thereof.

Applicant, on July 27, 1966, filed an amendment, pursuant to the requirements of the afore-mentioned Commission order, setting forth, among other things, that it proposes to accept as providing the lowest annual cost of money to it, the bid of Lehman Brothers, Equitable Securities Corporation, Eastman Dillon, Union Securities & Co., Riter & Co., and Salomon Brothers & Hutzler, to purchase the proposed issuance of $45,000,000, principal amount of Bonds, for the price of 100.421% of principal amount, with an interest rate of 5⅞%.

The Commission finds:

(1) Applicant has satisfactorily complied with the requirements of paragraph (B) of the Commission's order issued July 8, 1966, in the above docket, and under the bid it proposes to accept for the Bonds the price to be received by Applicant therefor and the interest rate thereof are reasonable.

(2) The proposed issuance and sale of Bonds, as hereinafter authorized, will be for a lawful object, within the corporate purposes of the Applicant and compatible with the public interest, which is appropriate for and consistent with the proper performance by the Applicant of service as a public utility and which will not impair its ability to perform that service, and is reasonably appropriate for such purposes.

The Commission orders:

(A) The price to be received by Applicant for the proposed Bonds and the interest rate thereof under the bid referred to above, are approved as reasonable.

(B) The proposed issuance and sale of Bonds referred to above upon the terms and conditions and for the purposes specified in the application, as supplemented by the amendment referred to above, are authorized, subject only to the provisions of paragraphs (A), (C), (D) and (E) of the Commission's order issued July 8, 1966, in the above docket.

OPINION NO. 502

SUN OIL COMPANY, ET AL., DOCKET NO. G-8592, ET AL.*

MEMORANDUM OPINION AND ORDER REQUIRING REFUNDS

(Issued July 28, 1966) *

Syllabus

In a proceeding upon the reserved refund issue and in accordance with *Skelly Oil Company, et al.*, Commission *orders* refunds of amounts collected by producers [while operating under unconditioned temporary certificates] in excess of later permanently certificated "in-line" price.

Commissioner O'Connor *dissents.*

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

Pursuant to Opinion No. 445 in this proceeding issued October 26, 1964, 32 FPC 1183, certificates of public convenience and necessity issued for twenty-five sales of natural gas by producers in the state of Mississippi. Ordering paragraph (F) of Opinion No. 445 reserved for subsequent decision whether refunds should be ordered as a condition of the permanent certificates issued to the producers listed in Appendix A hereto. The question involved is whether, and to what extent, refunds should be ordered of amounts collected by these producers while operating under temporary certificates in excess of the "in-line" price of 20.6 cents per Mcf, later determined to be the price required by public convenience and necessity, which in-line price was the initial price made a condition of the permanent certificates.

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*Additional parties set forth in Appendix A attached hereto. See order issued September 9, 1966 granting rehearing. Confirmed and motions for stay denied by Opinion No. 502-A issued December 8, 1966, 36 FPC 1003.

These producers requested temporary certificates on the ground of emergency. Such certificates were issued without specific refund condition for their benefit without a hearing to determine the price required by public convenience and necessity. When that price was finally determined after full opportunity for all interested parties to be heard, it was found that the price collected by the producers under the temporary certificates granted for their benefit exceeded the proper price at which permanent certificates were issued. In these circumstances we have held that the producers should be required in all equity to refund the excess amounts collected, unless there are countervailing equities outweighing the fact that the producers have received more than they were entitled to and have done so because they were permitted, at their own request, to make deliveries of gas before a full proceeding could be had to determine the proper price. *Skelly Oil Company*, Opinion No. 492 (June 1, 1966, 35 FPC 849), amended and confirmed Opinion No. 492-A (July 21, 1966, *supra*, p. 143); *Hawkins & Hawkins*, Opinion No. 498 (July 22, 1966, *supra*, p. 149); *Turnbull & Zoch Drilling Co.*, Opinion No. 499 (July 25, 1966, *supra*, p. 167); *Amerada Petroleum Corporation*, Opinion No. 501 (July 27, 1966, *supra*, p. 309).

The producers here were given full opportunity to submit briefs and statements of facts and evidence which might bear upon the equities. They set forth no equities which we have not dealt with in the cases cited. Accordingly, they will be ordered to make refunds of all amounts collected in excess of 20.6 cents per Mcf, with the exception of royalty payments made prior to February 1, 1964, and attributable to the excess amounts collected, and with the further exception of state production taxes paid prior to February 1, 1964, which are not recoupable by credit or otherwise, and which were attributable to the excess amounts collected. In accordance with the settlement approved by our order of October 1, 1964, Sun Oil Company will be required to make refunds only of amounts collected on or after that date.

The Commission orders:

(A) As a condition of the certificate granted in each of the dockets listed in Appendix A hereto, each certificate holder shall file within 60 days of the effective date of this order a report of the amounts collected by said certificate holder in excess of 20.6 cents per Mcf at 15.025 psia, less any amounts specified in ordering paragraphs (B), (C) and (D). Interest to date of this order shall be added at the rate of 6 percent per annum on all such excess amounts collected prior to March 1, 1960, and at the rate of 7 percent per annum on all such excess amounts collected on or after March 1, 1960, except that no interest shall be included on refunds to the extent state production taxes, paid but recoupable, are included in such refunds, and interest shall not exceed the legal rate recoverable by the certificate holder on that portion of the amount of any refund which was in fact paid over by certificate holder, not for his own benefit, to any third party prior to February 1, 1964.

(B) Each certificate holder listed in Appendix A hereto, may omit from the reports required by ordering paragraph (A) any amount by which payments made before February 1, 1964, of royalties and overriding royalties were increased by reason of the difference between the price of 20.6 cents per Mcf and the rates actually collected, and any amounts by which payments made before February 1, 1964, of state production taxes, not recoupable by credit or in any other manner, were increased by reason of said difference.

(C) Sun Oil Company may omit from the reports required by ordering paragraph (A) any amounts collected prior to October 1, 1964.

(D) The reports required by ordering paragraph (A) shall not include excess rates collected during any period when an increased rate in the docket in question was subject to possible refund in proceedings pursuant to Section 4(e) of the Natural Gas Act.

(E) Notwithstanding any other provision of this order, any state production taxes paid prior to February 1, 1964 by any party listed in Appendix A hereto, shall be required to be subject to the provisions of ordering paragraph (H) and the interest payments required thereby only from the time and to the extent that such excess tax payments may be recouped by credit or otherwise.

(F) Each report required by ordering paragraph (A) shall set forth the amount of refund related to each subject rate schedule (showing separately the principal and applicable interest, with the reasons for different rates of interest on different portions of the principal), the basis used for such determination, the period covered and a letter from the purchasers of the gas agreeing to the correctness of the amounts.

(G) Copies of all filings made pursuant to ordering paragraph (A) hereof shall be served at the time of filing upon all participants who within 45 days of the issuance of this order shall so request in writing, and upon the purchaser of the gas.

(H) Each certificate holder listed in Appendix A hereto shall retain the amounts shown in the reports required under ordering paragraph (A) subject to further order of the Commission directing the disposition of those amounts. If any such certificate holder elects to commingle these retained funds with its general assets and use them for its corporate purposes, it shall pay interest thereon at the rate of 5¾ percent per annum on all funds thus available from the date of the filing of the refund report to the date on which they are paid over to the person ultimately determined to be entitled thereto in a final order of the Commission. If the certificate holder elects to deposit the retained refunds in a special escrow account, the certificate holder shall tender for filing on or before the date of the filing of the refund report an executed Escrow Agreement, conditioned as set out below accompanied by certificate showing service of a copy thereof upon each of its jurisdictional customers. Unless notified to the contrary by the Secretary within 30 days from the date of filing thereof, the Escrow Agreement shall be entered into between the certificate holder and any bank or trust company used as a depositor for funds of the United States Government and the agreement shall be conditioned as follows:

(1) Certificate holder, the bank or trust company, and the successors and assigns of each, shall be held and formally bound unto the Federal Power Commission for the use and benefit of those entitled thereto, with respect to all amounts and the interest thereon deposited in a special escrow account, subject to such Agreement, and such bank or trust company shall be bound to pay over to such person or persons as may be identified and designated by final order of the Commission and in such manner as may be therein specified, all or any portion of such deposits and the interest thereon.

(2) The bank or trust company may invest and reinvest such deposits in any short-term indebtedness of the United States or an agency thereof or in any form of obligation guaranteed by the United States which is, respectively, payable within 120 days as the said bank or trust company in the exercise of its sound discretion may select.

(3) Such bank or trust company shall be liable only for such interest as the invested funds described in paragraph (2) above will earn and no other interest may be collected from it.

(4) Such bank or trust company shall be entitled to such compensation as is fair, reasonable and customary for its services as such, which compensation shall be paid out of the escrow account to such bank or trust company. Said bank or trust company shall likewise be entitled to reimbursement of its reasonable expenses necessarily incurred in the administration of this escrow account, which reimbursement shall be made out of the escrow account.

(5) Such bank or trust company shall report to the Secretary of this Commission quarterly, certifying the amount deposited in the trust account for the quarterly period.

(I) Any certificate holder may apply to the Commission, within 15 days of any order directing payment of any or all amounts held by any certificate holder pursuant to ordering paragraph (H), for leave to make payments over a period of time in discharge of its refund obligation.

Commissioner O'Connor *dissents* for the reasons stated in his dissents in the cases cited in the majority opinion herein.

APPENDIX A

	Docket Nos.
Sun Oil Company	G-19015, CI63-283
Humble Oil & Refining Company	G-19200, CI62-129
Monsanto Chemical Company (now Monsanto Company)	CI63-249
The California Company, a Division of Chevron Oil Company	CI63-563
Texaco Inc.	CI63-1409
General American Oil Company of Texas	G-18054
Texas Pacific Coal and Oil Company	G-19512

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

ATLANTIC SEABOARD CORPORATION, DOCKET NO. RP65-49; UNITED FUEL GAS COMPANY, RP66-2; COLUMBIA GULF TRANSMISSION COMPANY, RP66-22

ORDER DENYING PETITION FOR REHEARING OF ORDER AFFIRMING ISSUANCE OF SUBPOENAS DUCES TECUM DENYING MOTION FOR RECONSIDERATION OF ORDERS PERMITTING INTERVENTION AND DENYING REQUEST FOR ORAL ARGUMENT

(Issued July 29, 1966)

The Columbia Companies,[1] on June 29, 1966, filed a document containing three requests: (1) a petition for rehearing of the order issued June 13, 1966, 35 FPC

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[1] Atlantic Seaboard Corporation (Seaboard), United Fuel Gas Company (United Fuel), Columbia Gulf Transmission Company (Columbia Gulf), The Manufacturers Light and Heat Company (Manufacturers), The Ohio Fuel Gas Company (Ohio Fuel), Kentucky Gas Transmission Corporation (Kentucky Gas), and Home Gas Company (Home), collectively, "Columbia Companies".

974, in these consolidated proceedings which modified and affirmed the Presiding Examiner's issuance on May 8, 1966, of certain subpoenas duces tecum to the Columbia Companies; (2) a motion for reconsideration of orders issued herein on August 26, 1965, 34 FPC 593, and January 27, 1966, 35 FPC 158, permitting the Electric Companies[2] to intervene in these proceedings involving the restructured rates proposed by the three Respondents; and (3) a request for oral argument on these issues. The Columbia Companies on June 24, 1966, filed a motion for stay of subpoenas pending their petition which is the subject of this order. The Electric Companies, on June 30, 1966, filed an answer to the motion for stay.

The contentions of the Columbia Companies are essentially those urged in the full-day's hearing before the Presiding Examiner and in the pleadings filed in their appeal from the Examiner's issuance of the subpoenas. Our order issued June 13, 1966, makes specific reference to the three issues raised by the Electric Companies, and sets forth our conclusion, after consideration of all the contentions of all parties, that the data requested in the subpoenas are relevant and material to those issues. No useful purpose would be served to again discuss these contentions. Columbia Companies make two references to the language in our order which we believe we should comment on.

Columbia Companies argue that our order authorizes a "fishing expedition" because it found that the requested data are relevant and material to issues which "may" be raised by the parties in these consolidated proceedings. The use of the permissive "may" is not intended to indicate that the Electric Companies may subsequently find an issue and raise it in hearing, but that with respect to the issues specified in the order, they may or may not present evidence in hearing depending upon what their examination and evaluation of the data and material shows. Our order does not compel them to raise the specified issues nor does it dictate how the Electric Companies shall present their case.

Columbia Companies also contend that the cut-back in deliveries by United Fuel to Manufacturers and the further arrangements to be made by Manufacturers and Ohio Fuel, referred to in footnote 6 of the order issued June 13 is not a logical basis for "implication" that there is an issue in these proceedings of pooled gas supply. In effect Columbia Companies urge that before subpoenas are issued we should hold a hearing and decide whether the Columbia Companies operate on a "pooled gas supply" basis. Such separate proceedings would not eliminate requests for data on the basis of which other parties may seek to present evidence and could only result in further delaying these rate proceedings. Absent a full record we are not called upon to determine that Columbia Companies do operate a pooled gas supply or the effect of such operation on cost allocations and rate design, which is one of the issues raised by the Electric Companies. The area of inquiry is a proper one and the data requested are relevant and material to that issue and the other issues referred to in our prior order. See *Tennessee Gas Transmission Company*, 22 FPC 1049.

Columbia Companies also seek reconsideration of our orders granting the Electric Companies leave to intervene in these proceedings. This issue has been fully dealt with in our orders issued August 26, 1965, wherein we permitted intervention by Appalachian Power Company in Docket No. RP65–49; September 27, 1965, 34 FPC 971, wherein we denied reconsideration of the August 26 order; and January 27, 1966, wherein we permitted intervention by the Electric Companies in these consolidated proceedings. We are of the view that the request for further reconsideration is without merit. Likewise there appears to be no merit in Columbia Companies' request for oral argument on these procedural matters, particularly since they had such opportunity before the Presiding Examiner and the record of that full day's argument has been considered by us.

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[2] Appalachian Power Company, Wheeling Electric Company, Ohio Power Company, and Kentucky Power Company (Electric Companies).

The Commission finds:

The petition and motions of Columbia Companies for rehearing and reconsideration of the Commission's orders issued herein on June 13, 1966, on August 26, 1965, and on January 27, 1966, set forth no new facts and no principles of law which were either not fully considered by the Commission when it issued such orders, or which now having been considered, warrant any change or modification of those orders, and said petition and motions should be denied.

The Commission orders:

The petition and motions filed by the Columbia Companies on June 29, 1966 for rehearing and reconsideration of the Commission's order issued herein on June 13, 1966, modifying and affirming the issuance of subpoenas duces tecum, and the orders issued herein on August 26, 1965 and on January 27, 1966, granting leave to the Electric Companies to intervene, and Columbia Companies' motion for oral argument hereby are denied.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

ATLANTIC SEABOARD CORPORATION, DOCKET NO. RP65-49; UNITED FUEL GAS COMPANY, RP66-2; COLUMBIA GULF TRANSMISSION COMPANY, RP66-22

ORDER DENYING APPLICATION FOR RECONSIDERATION

(Issued July 29, 1966)

The Electric Companies[1] on July 7, 1966, filed an "Application for Rehearing"[2] of the Commission's order issued June 22, 1966, 35 FPC 1058, which denied Electric Companies' motion to dismiss so much of the tariff filings in these dockets as require any further consideration of the Winter Service Rate Schedules of United Fuel Gas Company and Atlantic Seaboard Corporation, two of the three Respondents in these consolidated proceedings.[3]

Our examination of the application indicates that it is in large part a restatement of arguments previously advanced by Electric Companies and adequately covered by our order issued June 22. While further extensive discussion of these contentions would not serve any useful purpose, we believe some further comment may be appropriate.

Electric Companies contend that denial of their motion to dismiss created a serious gap in the Commission's regulatory control. The order issued June 22 (p. 1060), provides opportunity for all parties to present evidence as to "whether the establishment of a separate rate for service from storage is in the public interest or is otherwise just and reasonable." That procedure is fully compatible with our regulatory control and specifically provided in Section 4(e) of the Act, which, in part, states:

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[1] Appalachian Power Company, Wheeling Electric Company, Ohio Power Company and Kentucky Power Company (Electric Companies).

[2] An application for rehearing of an interlocutory order, such as the order complained of, may not properly be filed (Section 1.30(e)) of the Commission's Rules of Practice and Procedure [18 CFR 1.30(e)]. The instant tender has been considered as a motion for reconsideration pursuant to Section 1.12 of the Rules.

[3] The proposed Winter Service Rate Schedules were included in proposed restructured tariffs which became effective subject to hearing and refund on May 16, 1965, and November 1, 1965, respectively in these proceedings.

> Whenever any such new schedule is filed the Commission shall have authority * * * to enter upon a hearing concerning the lawfulness of such rate, charge, classification or *service* * * *.

The Electric Companies in their application ask the following direct question:

> It is also pertinent to inquire, if the Winter Service is never certificated, under which provisions of the Act will a customer be able to request the Commission to require the Columbia Companies to extend Winter Service to it?

The short answer is that the customer does not have to request the Commission to extend the Winter Service to it. Pursuant to the tariff, the Winter Service Rate Schedule is available only to a customer who is taking contract demand service. Under the proposed tariff the customer can choose to take the volume of gas Columbia Companies have been certificated to deliver to him either entirely under the available contract demand rate schedule or in combination with the available Winter Service Rate Schedule.

The Commission finds:

The motion filed by Electric Companies on July 7, 1966, for reconsideration of the Commission's order issued herein June 22, 1966, sets forth no new facts and no principles of law which were either not fully considered by the Commission when it issued such order, or which now having been considered, warrant any change or modification of said order, and said motion should be denied.

The Commission orders:

The motion of Electric Companies filed July 7, 1966, for reconsideration of the Commission's order issued herein on June 22, 1966, hereby is denied.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

CENTRAL MAINE POWER COMPANY, DOCKET NO. E-7290

ORDER AUTHORIZING ACQUISITION OF FACILITIES

(Issued July 29, 1966)*

Central Maine Power Company (Central Maine) filed an application with the Federal Power Commission on May 9, 1966, seeking an order pursuant to Section 203 of the Federal Power Act authorizing it to acquire all of the electric utility properties and other assets of Maine Consolidated Power Company (Maine Consolidated) and of its wholly-owned subsidiary, Phillips Electric Light and Power Company (Phillips).

Central Maine is incorporated in the State of Maine and qualified to do business in that state with its principal place of business at Augusta, Maine, and is engaged primarily in the generation, transmission, distribution and sale of electric energy in a service area of about 9,000 square miles in central and southern Maine.

Maine Consolidated and Phillips are incorporated under the laws of the State of Maine with their principal place of business office at Farmington, Maine, and operate an electric utility system serving approximately 7,000 customers in portions of Somerset and Franklin Counties. Neither Maine Consolidated nor Phillips have any generating facilities. The territory they serve is located next to, or within, the northern and western parts of the Central Maine system. Currently, Maine Consolidated purchases all of its requirements and those of Phillips from Central Maine under a contract filed with the Federal Power Commission. According to the application their rates in general are higher than those now charged by Central Maine.

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*Rehearing denied by order issued September 23, 1966, 36 FPC 661.

According to the application, Central Maine proposes to acquire net assets of $1,690,717. Central Maine proposes to exchange that number of shares of its common stock which when multiplied by its closing price on the New York Stock Exchange on the effective date of the acquisition, equals $1,525,000 for all the capital stock of Maine Consolidated, and will pay $729,651 in cash for the redemption of Maine Consolidated's bonds, for a total consideration of $2,254,651. Upon acquisition of the capital stock, Central Maine will cause Maine Consolidated to be dissolved and liquidated. An acquisition adjustment of $563,934 will be created by the transaction. However, Central Maine's request to amortize the acquisition adjustment to operating expense has not been justified and the adjustment should therefore be amortized to Account 425, Miscellaneous Amortization, and the period of amortization should be limited to five years.

Central Maine represents that the integration of the relatively small electric utility systems of Maine Consolidated and Phillips into the larger integrated system of Central Maine will result in assuring a plentiful supply of electric energy in the territories now served by Maine Consolidated and Phillips. Central Maine states that upon acquisition of Maine Consolidated, the general accounting will be carried on at Central Maine's general office in Augusta, and the billing will be handled on Central Maine's new computer. It is expected that system engineering and quantity purchasing will cut down the cost of the territory's operation.

As a result of the transaction, Central Maine estimates that residential customers will experience a reduction of $39,000 per year, commercial customers $28,000 per year, and municipal customers $1,000 per year. Power customers will have an increase of $23,000 per year primarily due to the fact that Central Maine's rates are on a demand basis, whereas Maine Consolidated uses a flat block rate. This increase will be phased in over a period of 10 years. The first year customers experiencing an increase of over $3.00 per month will get a credit adjustment of 90% of the increase. This adjustment will be reduced by 10 percent of the increase each succeeding year so that full billing will take place in the tenth year.

Written notice of the application has been given to the Public Utilities Commission of Maine and to the Governor of that State. Notice was also published in the Federal Register on May 21, 1966 (31 F.R. 7416), stating that any person desiring to be heard or to make any protest with reference to said application should on or before June 20, 1966, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No protest or petition or request to be heard in opposition to the granting of the application has been received. The Public Utilities Commission of Maine approved the transaction by an order issued June 1, 1966.

The Commission finds:

(1) Central Maine, a corporation, is a public utility within the meaning of Section 203 of the Federal Power Act, subject to the jurisdiction of the Com-

mission as heretofore described and set forth in the Commission's order issued June 2, 1965, *Central Maine Power Company*, Docket No. E–7215 (33 FPC 1157).

(2) By the proposed transaction, Central Maine will merge or consolidate its facilities subject to the jurisdiction of the Commission with those of Maine Consolidated and Phillips, other persons, within the meaning and subject to the requirements of Section 203 of the Federal Power Act.

(3) The proposed acquisition of facilities by Central Maine, as described above, upon the terms and conditions set forth in the application, and subject to the provisions of this order will be consistent with the public interest as expressed in Section 203 of the Federal Power Act.

The Commission orders:

(A) The proposed acquisition by Central Maine of the aforementioned electric facilities, all as described above, is authorized and approved upon the terms and conditions and for the purposes set forth in the application subject to the provisions of this order.

(B) Central Maine shall record the proposed transaction herein authorized and the facilities and properties referred to above as provided in the Commission's Uniform System of Accounts Prescribed for Public Utilities and Licensees and the acquisition adjustment of $563,934 shall be amortized to Account 425, Miscellaneous Amortization, over a period not to exceed five years.

(C) This authorization shall expire unless the transaction herein authorized and approved is consummated within 90 days from the date of issuance of this order.

(D) The foregoing authorization is without prejudice to the authority of this Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates or determination of cost, or any matter whatsoever now pending or which may come before this Commission or any other regulatory body and nothing herein shall be construed as an acquiescence by this Commission in any estimate or determination of cost or any valuation of property claimed or asserted.

OPINION NO. 494–A

CHATTANOOGA GAS COMPANY v. EAST TENNESSEE NATURAL GAS COMPANY, DOCKET NO. RP65–3

MEMORANDUM OPINION AND ORDER DENYING REHEARING AND MOTION FOR STAY OF OPINION NO. 494

(Issued July 29, 1966)

Syllabus

Commission *clarifies* prior Opinion and Order and *denies* application for rehearing and motion for stay.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

On July 1, 1966, East Tennessee Natural Gas Company (ETN) filed an application for rehearing of our Opinion No. 494 and order issued June 8, 1966, 35 FPC 902, which reduced the maximum daily contract demand contained in the service agreement between ETN and Chattanooga Gas Company (Chattanooga). For the most part ETN's application restates the points previously raised in its briefs and adequately considered and disposed of in our Order. However, in denying ETN's application the following comments and clarifications are appropriate.

ETN states that the reason underlying the modification of the 40,000 Mcf per day limitation contained in the service agreement was that Chattanooga "* * * could purportedly purchase gas cheaper from another supplier * * *."[1] This was not the reason for lowering the contract demand limitation. As our Opinion clearly stated, the modification was necessary so that the Commission could "* * * review the full range of public interest considerations bearing on 8,000 Mcf of the total incremental gas supply required by the Chattanooga market."[2]

ETN also contends that our holding adversely affects its revenues. Although ETN's monthly demand charge to Chattanooga is based upon the actual maximum takes during the preceding 12-month period, the billing demand may not exceed the daily delivery obligation contained in the service agreement. Since Chattanooga's takes first exceeded 40,000 Mcf on January 31, 1966, the 40,000 Mcf limitation sets a ceiling on the billing demand for the subsequent year. ETN argues that the lowering of the limitation to 33,958 Mcf prohibits ETN from collecting the 40,000 Mcf billing demand based on the 1966 takes. Our Opinion did not intend such a result.

Chattanooga first exceeded the 40,000 Mcf limitation on January 31, 1966, due to the 1966 blizzard and accompanying transportation breakdown which prohibited replenishment of its peak-shaving supplies. Its billing demand under the existing service agreement for the next 12 months is, therefore, the 40,000 Mcf. ETN has two alternatives in effectuating the required revisions ordered in Opinion No. 494 without adverse effect on its revenues. ETN can file a new service agreement under its G–1 rate schedule implementing the modified contract limitation and eliminating the sole supplier provision to be effective January 31, 1967. In the alternative ETN can file for Commission approval a partial-requirements rate schedule as discussed in Opinion No. 494, with a minimum bill provision if desired, and a new service agreement thereunder reflecting the required changes to be effective January 31, 1967 or on the first day Southern Natural Gas Company (Southern) begins delivering gas to Chattanooga pursuant to Opinion No. 493, issued June 8, 1966, 35 FPC 917, whichever is later. Either alternative will assure ETN against any economic loss and should also compensate ETN for any greater demand costs occasioned by its increased purchases of gas from Tennessee Gas Pipeline Company as a result of Chattanooga's increased takes during the past winter.

On July 11, 1966, ETN tendered for filing a supplement to its "Gas Sales Contract" dated August 1, 1959, with Chattanooga, purportedly in compliance with ordering paragraphs (C) and (D) of the order accompanying our Opinion No. 494. The supplement provides for a reduction in the maximum daily demand from the present 40,000 Mcf to the prescribed 33,958 Mcf (and for elimination of the sole supplier provision appearing in Article I at page 3 of the contract. Further, ETN construes the supplement as requiring Chattanooga to take or pay for 67 percent of its annual entitlement of gas under the currently effective billing demand. The 67 percent figure is based on Opinion No. 493 (issued concurrently with Opinion No. 494) which permitted Southern to enter the Chattanooga market. In the absence of contrary action by the Commission, the supplement would automatically become effective on August 11, 1966.

ETN's filing must be rejected. Although ordering paragraph (C) called for a supplement to the presently filed service agreement, Section 154.63(d)(2) of the Regulations under the Natural Gas Act, dealing with changes in executed service agreements, provides that "Agreements intended to effect a change or revision of an executed service agreement shall be in the form of a superseding executed service agreement only. Service agreements shall not contain any supplement * * * ." ETN is also in error in attempting to impose a minimum commodity charge in the existing service agreement under its present G–1 rate schedule. This can be done, if at all, only under a partial-requirements rate schedule and service agreement previously discussed and as provided for in ordering paragraph (D) of Opinion No. 494.

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[1] ETN's Application for Rehearing at pp. 3–4.

[2] Opinion No. 494 at p. 905.

ETN also filed a motion to stay Opinion No. 494 and order pending action on rehearing and judicial review. The motion is denied. Opinion No. 494 and order as clarified in this Opinion and order will not cause irreparable injury as alleged by ETN.

The Commission further finds:

(1) The assignments of error and grounds for rehearing set forth in the application for rehearing filed by ETN present no facts or legal principles which would warrant any change or modification in the Commission Opinion No. 494 except as specified below.

(2) The time for the submission of compliance filings in accordance with ordering paragraph (C) of Opinion No. 494, as amended, should be extended for 90 days beyond the date of this Opinion and Order denying rehearing.

(3) ETN's supplement to the service agreement is not the proper method for implementing the changes ordered in Opinion No. 494 and Order.

(4) ETN's motion for stay should be denied.

The Commission orders:

(A) The application for rehearing of Opinion No. 494 filed by ETN on July 1, 1966, is denied.

(B) The effective date of the changes required by Opinion No. 494 and order is January 31, 1967.

(C) The supplement filed by ETN on July 11, 1966, in purported compliance with the requirements of ordering paragraph (C) of the order accompanying Opinion No. 494 is rejected.

(D) Ordering paragraph (C) of the order accompanying Opinion No. 494 is changed to read:

> (C) Within 90 days after the date of Opinion No. 494–A and Order ETN shall file, subject to the approval of the Commission, either (1) a new service agreement under its G–1 rate schedule embodying the changes ordered in Opinion No. 494 to be effective January 31, 1967, or (2) a partial-requirements rate schedule and a new service agreement thereunder reflecting the changes ordered in Opinion No. 494 and order, said service agreement to be effective January 31, 1967, or the first day Southern delivers gas to Chattanooga pursuant to Opinion No. 493 issued June 8, 1966, whichever is later. If a partial-requirements rate schedule is filed, ETN may include therein a provision for a minimum commodity bill.

(E) The motion for stay of Opinion No. 494 is denied.

(F) The following changes, in the nature of errata, are made to Opinion No. 494:

> (1) Delete the words "constituted" and "was" in line 7 on p. 906.
>
> (2) Delete the period in the third line of the fourth full paragraph of p. 906 and insert in lieu thereof a comma.
>
> (3) Delete the capital "S" of the word "Since" in the third line of the fourth full paragraph and insert in lieu thereof a small "s".

[Editor's note. Corrections (2) & (3) made in the printed page].

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

CITY OF JONESBORO, ILLINOIS AND TEXAS EASTERN TRANSMISSION CORPORATION, DOCKET NO. CP66-381; VILLAGE OF COBDEN, ILLINOIS AND TEXAS EASTERN TRANSMISSION CORPORATION, DOCKET NO. CP66-382

FINDINGS AND ORDERS DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued July 29, 1966)

On May 20, 1966, the City of Jonesboro, Illinois (Jonesboro), filed in Docket No. CP66-381 an application and supplement thereto filed June 17, 1966, pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Texas Eastern Transmission Corporation (Respondent) to establish physical connection of its transportation facilities with the facilities proposed to be constructed by Jonesboro to provide a new point of delivery for Jonesboro's present allocation of natural gas for Jonesboro's existing distribution system and for delivery of the natural gas requirements of the facilities proposed to be constructed by the Village of Cobden, Illinois, all as more fully set forth in the application.

Jonesboro, presently owns and operates a natural gas distribution system. Gas is purchased from Respondent and transported to Jonesboro through the low pressure distribution facilities owned and operated by the City of Anna, Union County, Illinois. Texas Eastern was authorized in Docket No. G-2573 to render the service to Jonesboro and to Anna. The systems serving the two communities have been in operation since 1956.

Jonesboro states that the establishment of a new point of delivery is necessary because the present method of transportation of gas through the low pressure facilities of the City of Anna, Illinois, is unsatisfactory and inadequate to meet the growing demands and to assure sufficient volumes and pressures on peak days. Jonesboro further states that the proposal would make it possible to make natural gas service available to ultimate consumers in the Village of Cobden and along the proposed transmission pipeline, all of which are now without natural gas. The Village of Cobden has filed an application pursuant to Section 7(a) of the Natural Gas Act in Docket No. CP66-382.

Jonesboro proposes to interconnect a lateral pipeline with Respondent's pipeline near the point where it crosses Illinois State Highway No. 127. From this point of connection, Jonesboro proposes to construct a 4-inch high pressure lateral extending northward along said highway a distance of approximately four miles to the existing town border station presently located at the east side of the City of Jonesboro. Jonesboro also proposes to serve prospective customers along its proposed lateral. This service will be rendered from Jonesboro's existing maximum day allocation of 628 Mcf.

The total estimated cost of the facilities to be constructed by Jonesboro is $71,000, which will be financed from funds on hand in the City's Gas Fund.

On May 26, 1966, Respondent was duly advised of the application filed in Docket No. CP66-381, and due notice of the filing and opportunity for hearing thereon has been given by publication in the Federal Register on June 9, 1966 (31 F.R. 8142). No protest, petition to intervene or request for hearing has been filed in this proceeding.

On June 27, 1966, Respondent filed an answer to the application in Docket No. CP66–381 and indicated therein it had no objection to the entry of an order requiring it to establish the requested connection of its facilities and provide the requested service.

On May 20, 1966, the Village of Cobden, Illinois (Cobden), filed in Docket No. CP66–382 an application pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Texas Eastern Transmission Corporation (Respondent) to establish physical connection of its transportation facilities with the facilities proposed to be established by Cobden and to sell and deliver to Cobden its natural gas requirements, all as more fully set forth in the application.

The natural gas requirements during the first three years of proposed operations are estimated to be as follows:

	First year	Second year	Third year
Annual (Mcf)	42,800	49,900	57,700
Peak day (Mcf)	416	486	566

Cobden proposes to construct and operate a natural gas distribution system to serve the prospective customers in the Village of Cobden and vicinity and along its proposed high pressure transmission pipeline. The proposed 3-inch transmission lateral will be installed by Cobden along U.S. Highway No. 51 extending approximately five miles from Cobden to the meter station to be located on the east side of the City of Jonesboro, Illinois, at the present site of Jonesboro's existing town border station.

Cobden states that it has entered into a contract with the City of Jonesboro under which Jonesboro will transport Cobden's natural gas from Respondent's pipeline to Cobden's meter station through new transmission facilities to be constructed by Jonesboro, pursuant to authorization sought by Jonesboro in its application filed May 20, 1966, in Docket No. CP66–381.

On May 26, 1966, Respondent was duly advised of the application filed in Docket No. CP66–382, and due notice of the filing and opportunity for hearing thereon has been given by publication in the Federal Register on June 7, 1966 (31 F.R. 8034). No protest, petition to intervene or request for hearing has been filed in this proceeding.

On June 27, 1966, Respondent filed an answer to the application in Docket No. CP66–382 and indicated therein it had no objection to the entry of an order requiring it to establish connection of its facilities and provide the requested service.

The Commission finds:

(1) Texas Eastern Transmission Corporation, a Delaware corporation having its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of October 11, 1947, in Docket No. G–880 (6 FPC 171).

(2) Jonesboro and Cobden are legally authorized to engage in the local distribution of natural gas to the public within the meaning of Section 7(a) of the Natural Gas Act.

(3) It is necessary and desirable in the public interest to direct Texas Eastern to establish physical connection of its transmission facilities with the facilities proposed to be established by Jonesboro and to sell to Jonesboro up to the maximum daily volumes heretofore allocated to Jonesboro under a superseding service agreement and to sell up to 566 Mcf to Cobden with transportation of

said natural gas by Jonesboro to a point of delivery at Cobden's meter station located on the east side of the City of Jonesboro under a service agreement to be executed with Texas Eastern in accordance with the Commission's Regulations, for distribution and resale as hereinbefore described and to deliver the same to Jonesboro for the account of Cobden.

(4) The requirement that Texas Eastern serve Jonesboro and Cobden as hereinafter ordered, will not place an undue burden upon Texas Eastern, require Texas Eastern to enlarge its transportation facilities, or impair Texas Eastern's ability to render adequate service to its existing customers.

(5) Jonesboro and Cobden should be prepared to receive natural gas from Texas Eastern for distribution as proposed, within one year from the date of the issuance of this order.

The Commission orders:

(A) Texas Eastern Transmission Corporation is directed to establish physical connection of its facilities with the facilities proposed to be constructed and operated by Jonesboro as herein described, and to sell to Jonesboro up to the maximum daily volume heretofore allocated to Jonesboro under a superseding service agreement, and to sell up to 566 Mcf of natural gas daily to Cobden under a service agreement to be executed by Cobden with Texas Eastern in accordance with the Commission's Regulations, for distribution and resale as hereinbefore described and as more fully described in the applications in the proceedings and to deliver the same to Jonesboro for the account of Cobden. Such service shall be rendered pursuant to Texas Eastern's presently filed appropriate rate schedule.

(B) Texas Eastern shall report to the Commission in writing the date of commencement of service to Applicants within 10 days thereof.

(C) Jonesboro and Cobden shall be prepared to receive service as directed herein within one year from the date of issuance of this order.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

NORTHERN INDIANA PUBLIC SERVICE COMPANY, DOCKET NO. E-7296

ORDER AUTHORIZING ACQUISITION OF FACILITIES

(Issued July 29, 1966)

Northern Indiana Public Service Company (Applicant) filed an application on May 31, 1966 seeking an order pursuant to Section 203 of the Federal Power Act authorizing it to acquire the electric system facilities owned by the City of Nappanee, Indiana and operated by the Nappanee Utilities Company (Nappanee).

Applicant is incorporated under the laws of the State of Indiana with its principal place of business at Hammond and is engaged in the generation, purchase, sale at wholesale and distribution of electric energy in 21 counties in northern Indiana.

Nappanee operates electric generation and distribution facilities serving Nappanee and surrounding rural territories serving approximately 2,300 customers.

According to the application, the facilities to be acquired consist of all the electric production plant and all the electric distribution plant including a 12,300 kw generating plant. For these facilities, Applicant proposes to pay $1,401,496. The original cost of the facilities less depreciation, is estimated at $1,326,459. This will result in the creation of an acquisition adjustment of $75,037 which Applicant proposes to write off by a debit to earned surplus.

The Nappanee system is presently isolated electrically from any other electric utility system. However, it is surrounded by the Applicant's system, and the Applicant proposes to construct two 69 kv lines, one extending west to Nappanee and one extending north to Nappanee, from its existing system. The transaction will not result in an increase in charges in electric service for any customer since present customers of Nappanee will have the option of remaining under the present Nappanee rates or changing to Applicant's standard rate schedules. Applicant represents that it has the capacity and ability to render more efficient service and to expand the system now owned by Nappanee, and Applicant further represents that Nappanee will be able to finance much needed internal improvements from proceeds of the sale and that its tax base will be expanded.

Written notice of the application has been given to the Public Utilities Commission of Indiana and to the Governor of that State. Notice was also published in the Federal Register on June 14, 1966, (31 F.R. 8322), stating that any person desiring to be heard or to make any protest with reference to said application should on or before June 30, 1966, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10).

The Commission finds:

(1) Applicant, a corporation, owns and operates facilities for the transmission and sale at wholesale of electric energy which is generated in the States of Ohio and Illinois and consumed in the State of Indiana, all of which facilities are in addition to, and do not include, facilities used for the generation of electric energy or facilities used in local distribution or solely for the transmission of electric energy consumed wholly by the transmitter. Applicant, therefore, is a public utility within the meaning of that term as used in Section 203 of the Federal Power Act.

(2) By the proposed transaction, Applicant will merge or consolidate its facilities subject to the jurisdiction of the Commission with those of Nappanee, another person, within the meaning and subject to the requirements of Section 203 of the Federal Power Act.

(3) The proposed acquisition of facilities by Applicant as described above, upon the terms and conditions set forth in the application, and subject to the provisions of this order will be consistent with the public interest as expressed in Section 203 of the Federal Power Act.

The Commission orders:

(A) The proposed acquisition by Applicant of the aforementioned electric facilities, all as described above, is authorized and approved upon the terms and conditions and for the purposes set forth in the application subject to the provisions of this order.

(B) Applicant shall record the proposed transaction herein authorized and the facilities and properties referred to above as provided in the Commission's Uniform System of Accounts Prescribed for Public Utilities and Licensees.

(C) This authorization shall expire unless the transaction herein authorized and approved is consummated within 90 days from the date of issuance of this order.

(D) The foregoing authorization is without prejudice to the authority of this Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates or determination of cost, or any matter whatsoever now pending or which may come before this Commission or any other regulatory body and nothing herein shall be construed as an acquiescence by this Commission in any estimate or determination of cost or any valuation of property claimed or asserted.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

PACIFIC POWER & LIGHT COMPANY AND PORTLAND GENERAL ELECTRIC COMPANY, DOCKET NO. E-7291

ORDER AUTHORIZING ACQUISITION OF FACILITIES

(Issued July 29, 1966)

Pacific Power & Light Company (Pacific) filed on May 12, 1966, joined on June 3, 1966 by Portland General Electric Company (Portland) an application for authority for each to acquire certain electric distribution facilities of the other pursuant to Section 203 of the Federal Power Act.

Pacific is incorporated under the laws of the State of Maine and is qualified to transact business in the States of Oregon, Washington, California, Montana and Idaho with its principal place of business at Portland, Oregon. It is engaged primarily in the business of generating, purchasing, transmitting, selling at wholesale, and distributing electric energy.

Portland is incorporated under the laws of the State of Oregon and operates an electric system serving in the cities of Portland, Salem, Oregon City, Hillsboro, 42 other incorporated cities and towns, and surrounding territory in the State of Oregon.

The proposed exchange of properties results from an Ordinance (No. 120617) passed by the City Council of Portland on June 30, 1965. This ordinance designated certain areas within the City of Portland as Underground Wiring Control Districts with the purpose of eventually having all utilities underground rather than overhead within these Districts. The ordinance further designated areas within the Districts to be served exclusively by Pacific and Portland.

Following negotiation as to the consideration for the properties involved, Pacific and Portland signed an agreement on March 25, 1966, specifying which facilities would be exchanged, the considerations therefor, and the procedures for the exchange. Pacific proposes to transfer to Portland distribution facilities with an original cost of $1,240,400 and depreciated original cost of $938,718. These facilities serve 348 commercial customers and 22 residential customers. Portland proposes to transfer to Pacific distribution facilities with original cost of $1,366,217 and depreciated original cost of $1,062,864. These facilities serve 251 commercial customers and three residential customers. In addition to the exchange of properties, Pacific will pay to Portland the amount of $161,105. The total consideration will create an acquisition adjustment of $36,959 on the books of Pacific. This acquisition adjustment will be eliminated by a debit to Account 435, Miscellaneous Debits to Surplus. The total consideration received by Portland will result in a profit of $36,959 which Portland will record on its books as a credit to Account 434, Miscellaneous Credits to Surplus.

None of the customers involved in the exchange will experience a change in rates as the retail rate schedules of both Pacific and Portland have been identical in this area for many years.

Applicants represent that the proposed acquisition will be consistent with the public interest in that it will promote the installation of underground facilities in the core area of the City of Portland in the most economical and effective manner and will eliminate areas where there are now duplicating systems.

Written notice of the application has been given to the Oregon Public Utility Commissioner, Wyoming Public Service Commission, Washington Utilities and

Transportation Commission, California Public Utilities Commission, Montana Board of Railroad Commissioners, and Idaho Public Utilities Commission and to the Governors of each of those states. Notice has also been given by publication in the Federal Register on June 9, 1966 (31 F.R. 8145), stating that any person desiring to be heard or to make any protest with reference to the application should file a petition or protest on or before June 27, 1966, with the Federal Power Commission, Washington, D.C. 20426. No protest or petition or request to be heard in opposition to the granting of the application has been received.

The Commission finds:

(1) Pacific, a corporation, is a public utility within the meaning of Section 203 of the Federal Power Act, subject to the jurisdiction of the Commission as heretofore described and set forth in the Commission's order issued March 28, 1962, *Pacific Power & Light Company* (27 FPC 620).

(2) Portland, a corporation, owns and operates facilities for the transmission and sale at wholesale of electric energy which is generated in the State of Washington and consumed in the State of Oregon, all of which facilities are in addition to, and do not include, facilities used for the generation of electric energy or facilities used in local distribution or solely for the transmission of electric energy consumed wholly by the transmitter. Portland, therefore, is a public utility within the meaning of that term as used in Section 203 of the Federal Power Act.

(3) By the proposed transaction Pacific will merge or consolidate its facilities subject to the jurisdiction of the Commission with part of those of Portland, and Portland will merge or consolidate its facilities subject to the jurisdiction of the Commission with part of those of Pacific, within the meaning and subject to the requirements of Section 203 of the Federal Power Act.

(4) The proposed acquisition of facilities by Pacific and the proposed acquisition of facilities by Portland all as described above, on the terms and conditions set forth in the application and subject to the provisions of this order will be consistent with the public interest as expressed in Section 203 of the Federal Power Act.

The Commission orders:

(A) The proposed acquisition by Pacific and the proposed acquisition by Portland of the electric facilities referred to above and as described in the application are authorized and approved upon the terms and conditions and for the purposes set forth in the application subject to the provisions of this order.

(B) Pacific and Portland shall record the proposed transactions herein authorized and the facilities and properties referred to above as provided in the Commission's Uniform System of Accounts Prescribed for Public Utilities and Licensees.

(C) This authorization shall expire unless the transactions herein authorized and approved are consummated within 90 days from the date of issuance of this order

(D) the foregoing authorization is without prejudice to the authority of this Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates or determinations of cost, or any matter whatsoever now pending or which may come before this Commission or any other regulatory body and nothing herein shall be construed as an acquiescence by this Commission in any estimate or determination of cost or any valuation of property claimed or asserted.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

TEXAS OIL & GAS CORPORATION,[1] DOCKET NOS. G-17288 AND RI62-540

ORDER ACCEPTING OFFER OF SETTLEMENT, REQUIRING FILING OF NOTICES OF CHANGE, REQUIRING REFUNDS, SEVERING AND TERMINATING PROCEEDINGS

(Issued July 29, 1966)

On June 10, 1966, Texas Oil & Gas Corporation (Texas Oil) filed an offer of settlement in these proceedings pursuant to Section 1.18(e) of the Commission's Rules of Practice and Procedure. The offer involves proposed increased rates for sales of natural gas made to Tennessee Gas Pipeline Company, a division of Tenneco Inc. (Tennessee) by Texas Oil in the Placedo Field, Victoria County, Texas (Texas Railroad Commission District No. 2) under its FPC Gas Rate Schedule No. 1, and in the North Lissie Field, Colorado County, Texas, (Texas Railroad Commission District No. 3) under its FPC Gas Rate Schedule No. 42. The effective rates, being collected subject to refund, under Rate Schedule Nos. 1 and 42 are 15.33333¢ and 15.95016¢ per Mcf of natural gas at 14.65 psia, respectively.[2]

Texas Oil proposes to amend its contracts to provide for a rate of 15¢ per Mcf of natural gas at 14.65 psia for the remaining terms of the contracts, and to eliminate all escalation provisions therefrom, except the tax reimbursement provisions. It also proposes to refund to Tennessee all monies charged and collected, subject to refund, above the settlement rates, either by itself or its predecessor, with applicable interest computed to the date of issuance of this order. The refund amount will be approximately $39,000, exclusive of interest, and Texas Oil's current annual revenue from these sales will be reduced by $4,800. Tennessee and its jurisdictional pipeline customers are obligated to flow-through the refund monies.

Texas Oil's proposal is consistent with the provisions of the Second and Ninth Amendments to the Commission's Statement of General Policy No. 61-1 (18 CFR 2.56) and we shall approve the same.

However, we desire to make it clear that acceptance of Texas Oil's offer of settlement shall not be construed as approval of any future increased rates that may be filed by Texas Oil under the subject rate schedules in accordance with its reservation of the right to file increases to cover possible future tax increases, and is without prejudice to any findings or order of the Commission in any future proceedings, including area rate or other similar proceedings, involving Texas Oil rates and rate schedules.

The Commission finds:

The proposed settlement of the above-designated proceedings, on the basis described herein, as more fully set forth in the offer of settlement filed with the Commission by Texas Oil on May 31, 1966, is consistent with the Statement of General Policy No. 61-1, as amended, 18 CFR 2.56, and approval thereof as made effective and hereinafter ordered is in the public interest and is appropriate to carry out the provisions of the Natural Gas Act.

The Commission orders:

(A) The offer of settlement filed with the Commission by Texas Oil on June 10, 1966, is approved in accordance with the provisions of this order.

(B) Texas Oil shall file, within 30 days from the date of issuance of this order, notices of change in rates under its FPC Gas Rate Schedule Nos. 1 and

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[1] Successor to Salt Dome Production Company.

[2] Rate Schedule No. 42 is subject to a 0.21931¢ dehydration charge deduction which is applicable to the settlement rate.

42 to reflect the settlement rates of 15¢ per Mcf of natural gas at 14.65 psia, subject to any contractual deductions, and executed contractual amendments in accordance with the terms of its settlement proposal and as approved herein. The notices of change and contractual amendments shall be submitted in accordance with Part 154 of the Commission's Regulations under the Natural Gas Act.

(C) Texas Oil shall compute the difference between the rates collected subject to refund and the settlement rate for the subject sales with applicable interest to the date of this order, and shall within 45 days from the date of issuance of this order submit a report to the Commission, with a copy to Tennessee, setting out the amount of refunds (showing separately the principal and applicable interest) the bases used for such determination, the period covered, and ten days thereafter shall submit to the Commission a copy of a letter from Tennessee agreeing to the correctness of such amounts, and it shall refund the same to Tennessee ten days after filing the letter from Tennessee and ten days thereafter shall file a release from Tennessee acknowledging receipt of such monies.

(D) Upon notification by the Secretary of the Commission that Texas Oil has complied with the terms and conditions of this order, the subject proceedings shall terminate, and Docket Nos. G-17288 and RI62-540 shall be severed from the Texas Gulf Coast area rate proceeding Docket No. AR64-2, all without further order of the Commission.

(E) The acceptance by the Commission of Texas Oil's offer of settlement is without prejudice to any findings or determinations that may be made in any proceeding now pending, or hereafter instituted by or against Texas Oil and is without prejudice to claims or contentions which may be made by Texas Oil, the Commission staff, or any affected party hereto, in any proceedings.

OPINION NO. 493-A

TRANSCONTINENTAL GAS PIPE LINE CORPORATION, DOCKET NO. CP64-270; SOUTHERN NATURAL GAS COMPANY, CP64-259, CP64-314; EAST TENNESSEE NATURAL GAS COMPANY, CP65-66; TENNESSEE GAS TRANSMISSION COMPANY, CP64-165; CITY OF BUFORD, GEORGIA, CP65-11, CP65-20; CITY OF SUGAR HILL, GEORGIA, CP65-10, CP65-19; CITY OF AUSTELL, GEORGIA, CP65-74

MEMORANDUM OPINION AND ORDER CLARIFYING AND AMENDING OPINION AND ORDER DENYING APPLICATIONS FOR REHEARING AND MOTION FOR STAY

(Issued July 29, 1966)

Syllabus

1. Contention that failure to file exceptions to Examiner's decision should not be taken as waiver of objections is *rejected*—whether, as claimed, objections would have been duplicative, it was incumbent on pipeline to take exceptions individually on points of disagreement. P. 337.
2. Motion for stay *denied* for failure to meet criteria set forth in *Virginia Petroleum Jobbers Association.* P. 338.
3. Commission *amends* and *clarifies* prior Opinion and order; *denies* motion for stay and applications for rehearing.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

Ross, *Commissioner:*

Applications for rehearing of our Opinion No. 493 and order issued June 8, 1966, 35 FPC 917, have been filed by the Knoxville interveners, jointly by East

Tennessee Natural Gas Company (East Tennessee) and Tennessee Gas Pipeline Company (Tennessee Gas), and by Southern Natural Gas Company (Southern). East Tennessee and Tennessee Gas also filed a motion for stay pending final action on their application for rehearing and, in the event rehearing is denied, until the conclusion of judicial review. Answers in opposition to the motion for stay were filed by Chattanooga Gas Company (Chattanooga) and Southern.

By Opinion No. 493 we denied East Tennessee's application for a certificate of public convenience and necessity in Docket No. CP65–66 and Tennessee Gas' companion application to amend the certificate issued to it in Docket No. CP64–165 and granted the competitive application of Southern in Docket No. CP64–314 to sell and deliver up to 29,000 Mcf per day to Chattanooga. In addition, we remanded to the Examiner for further proceedings the competitive proposals of Southern and Transcontinental Gas Pipe Line Corporation (Transco) to provide additional service to Atlanta Gas Light Company (Atlanta Gas) in the Atlanta, Georgia area.

The reasons underlying the actions taken in Opinion No. 493 and the conditions attached to the certificate issued Southern for service in the Chattanooga market area, as well as the factors leading to the denial of East Tennessee's application, are set out in full in the Opinion. Our examination of East Tennessee's rehearing application indicates that a number of the issues are little more than restatements of arguments previously advanced by it and adequately covered in the Opinion. A rediscussion of these points would serve no useful purpose. We direct our attention, therefore, to the remaining matters.

East Tennessee makes a point of the fact that it did indicate its willingness to supply all firm gas to Chattanooga for resale to Farmers Chemical. However, the proposal was not made until well after the hearings had begun and, on evaluation, was inferior when compared to Southern's application and the advantages inherent therein. On balance we found that Southern's proposal was in the greater public interest. We affirm that determination.

East Tennessee contends that we erred in holding that certification of Southern's proposal would enhance Chattanooga's competitive position and improve its ability to reduce its rates. In support it has included a computation showing an annual saving of $2,865 to Chattanooga if its entire requirements were purchased from East Tennessee. Because the East Tennessee proposal was not for a 100 percent firm gas supply, it was necessary to consider both that proposal and the service proposed to be rendered by Southern at comparable load factors in order to determine the relative price advantage. On this basis the rate which would have been charged by East Tennessee would be higher than the rate under Southern's OCD–3 rate schedule.

The computation submitted by East Tennessee is based on 100 percent firm service to Chattanooga. As set out in the Opinion, this service was not proposed by East Tennessee in its application. During the hearing the Examiner specifically inquired of East Tennessee's attorney whether, in presenting evidence regarding 100 percent firm service, the company was attempting to amend its application. East Tennessee replied that they were not making an offer of an amendment to their application and that they were continuing to offer service on a basis of 65 percent firm and 35 percent interruptible gas.[1] As we have found, this service would not meet the needs of Chattanooga and Farmers Chemical.

East Tennessee's proposal for a reduction of 2 cents per Mcf was based on the part firm-part interruptible service offered in its application. The exhibits and testimony submitted regarding the reduction based on 100 percent firm service were inadequately supported and their introduction appears to have been little more than a last minute attempt by East Tennessee to bolster its application. Moreover, the reductions were not offered by East Tennessee on a system-wide basis but only to its Zone 1 and Zone 2 customers. No explanation was given for excluding the Zone 3 customers from a reduction and there was no showing that the failure to effect a comparable reduction in its Zone 3 would not have resulted in a discriminatory rate treatment.[2]

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[1] Transcript, Vol. 32, pp. 3382–3388.

The reduction of 2 cents per Mcf proposed by East Tennessee was considered by us at the time of our decision. For the reasons stated in the Opinion, as further stated herein, we concluded that the offer was not sufficiently decisive as to warrant certification of East Tennessee's proposal. We are convinced that the issuance of a certificate to Southern for the service proposed by it in its application is required by the public convenience and necessity.

East Tennessee also disagrees with our conclusion that it can substantially replace its interruptible sales to Chattanooga with sales to other customers. It argues that it is presently selling all the interruptible gas it can possibly sell on non-curtailment days and that the only volumes it could replace are those sold to Chattanooga for the Farmers Chemical market on days of partial curtailment. The continued growth in East Tennessee's interruptible gas sales, as most recently set out in the July 7, 1966, *supra*, p. 20, order in Docket No. G–2268 increasing the authorized interruptible deliveries to Bowaters Southern Paper Company (Bowaters) from 9,000 Mcf per day to 26,500 Mcf per day, enforces our conclusion that East Tennessee should experience little practical difficulty in finding new markets to replace the sales previously made to Chattanooga for Farmers.

Tennessee contends that its failure to file exceptions to the Examiner's decision should not have been taken as a waiver of its objections to his denial of its application. Whether, as claimed, its objections would have been duplicative of East Tennessee's exceptions, it was incumbent on Tennessee Gas to take exception individually on the points with which it disagreed.

The Knoxville interveners point out that a part of East Tennessee's application involved a request for certificate authorization to continue certain firm gas sales to Bowaters and the Aluminum Company of America (Alcoa) which have been made without a certificate since 1964. The rates found just and reasonable in Opinion No. 488, 35 FPC 534, were derived through the use of sales volumes and allocation factors including the firm gas deliveries to Bowaters and Alcoa. Furthermore, the evidence shows that the firm industrial deliveries are not being made through the utilization of capacity from Zone 3 pending the build up of those sales to the estimated third year requirements. Accordingly, we believe that it is in the public interest to certificate these firm gas sales to a maximum of 11,505 Mcf peak day and 3,924,608 Mcf annually for Alcoa and 3,356 Mcf peak day and 1,224,940 Mcf annually for Bowaters as reflected in Exhibit No. 102, Schedule 2, Page 2. In all other respects the order denying the certificate in Docket No. CP65–66 will be affirmed.

The Knoxville interveners also request that the Commission find that the present facilities of East Tennessee are capable of meeting the firm coincidental peak day requirements of all its customers as estimated for 1968. On May 25, 1966, we issued public notice of a new application filed by East Tennessee in Docket No. CP66–375 seeking authority to build $1.7 million in facilities to meet its claimed 1966–67 winter needs. The facts concerning the need for those facilities are under investigation in that docket. Since the finding herein sought by Knoxville would constitute a prejudgment of that application, the request must be denied.

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[2] On July 25, 1966, East Tennessee submitted a revised computation showing additional savings under the rates prescribed in our recent Opinion No. 497. Although not part of the application for rehearing as originally filed, we have given consideration to this material. It is, however, subject to the same defects regarding the failure to offer the requisite level of firm service and the fact that the reduction would not be system-wide as have been found objectionable with regard to the initial computation.

The application for rehearing filed by Southern is addressed to the portion of the Opinion dealing with the Atlanta market. While it states that it has no objection to the holding of the additional proceedings, it urges the Commission, in the remanded proceedings, to permit it to amplify the existing record wherever the record now appears, inadequate. In this connection it requests the deletion of certain findings in the Opinion allegedly prejudicial to its position.

In the reopened proceedings Southern will have a full opportunity to present such new evidence as may be relevant to any proposed new project as well as the proposals now pending for consideration. Our discussion in the Opinion was intended to explain our interim disposition of the applications and the Commission's thinking thereon based on the evidence presently of record. It was not intended to be prejudicial to any position the parties may wish to advocate at the reopened hearing or to constitute a prejudgment of any of the material that may be introduced in the reopened hearings. Since the findings made will not prevent any party from securing a full and fair hearing, there is no basis for their deletion from the Opinion.

In its motion for stay East Tennessee alleges that it will lose a substantial portion of the revenues previously derived from the service to Chattanooga unless the authority granted Southern is delayed. The criteria followed by us in passing on requests for stay of our Opinions are set out in *Virginia Petroleum Jobbers Assn.* v. *F.P.C.*, 259 F. 2d 921 (CADC–1958). The tests include (1) the probability that the applicant for stay will prevail on the merits; (2) irreparable injury to the applicant; (3) whether the stay will substantially harm other interested parties; and (4) where does the public interest lie? Although East Tennessee alleges irreparable injury in the event that our decision is overturned, we are unable to see where such injury as it may sustain could not readily be recompensed under the existing powers of the Commission. Although East Tennessee has not even addressed itself in its motion to the remaining criteria, we may observe that the potential for harm to the public from a delay in the construction of Southern's facilities occasioned by a stay outweighs, in its seriousness, any possibility for injury to East Tennessee. The motion for stay will be denied.

The Commission further finds:

(1) The assignments of error and grounds for rehearing set forth in the applications for rehearing filed in this proceeding present no facts or legal principles which would warrant any change or modification in the Commission's Opinion No. 493 and accompanying order except as specified below.

(2) The motion for stay of Opinion No. 493 and accompanying order filed July 1, 1966, by East Tennessee Natural Gas Company and Tennessee Gas Pipeline Company, a Division of Tenneco Inc., should be denied.

The Commission orders:

(A) Ordering paragraph (F) of the order accompanying Opinion No. 493 is amended to read:

> (F) East Tennessee Natural Gas Company is hereby granted a permanent certificate of public convenience and necessity authorizing East Tennessee to transport and deliver up to 11,505 Mcf of natural gas on peak days and 3,924,608 Mcf annually to the Aluminum Company of America, and up to 3,356 Mcf on peak days and 1,224,940 Mcf annually to Bowaters Southern Paper Corporation, on a firm basis (all at 14.73 psia); in all other respects the application in Docket No. CP65–66 is denied.

(B) The applications for rehearing filed jointly by East Tennessee Natural Gas Company and Tennessee Gas Pipeline Company, and individually by Southern Natural Gas Company and Knoxville, *et al.* are denied.

(C) The motion for stay filed jointly by East Tennessee Natural Gas Company and Tennessee Gas Pipeline Company is denied.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

CITIES OF ALTENBURG AND FROHNA, MISSOURI AND NATURAL GAS PIPELINE COMPANY OF AMERICA, DOCKET NO. CP66-342

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued August 1, 1966)

On April 28, 1966, the Cities of Altenburg and Frohna, Missouri (Applicants), filed in Docket No. CP66-342 an application pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Natural Gas Pipeline Company of America (Respondent) to establish physical connection of its transmission facilities with the facilities to be constructed by the City of Frohna and to sell and deliver natural gas to the City of Frohna for resale and distribution therein and for resale to the City of Altenburg for resale and distribution therein, all as more fully set forth in the application.

Altenburg and Frohna propose to construct and operate natural gas distribution systems within their own borders and Frohna proposes to construct and operate approximately 3.22 miles of 2-inch transmission line between Frohna and a point on Respondent's pipeline, all in Perry County, Missouri. Applicants propose that Frohna will receive natural gas from Respondent at the delivery point on Respondent's pipeline from which point the gas will be transported to Altenburg and to Frohna. Altenburg will be charged for its gas at the cost of the gas to Frohna plus a transportation charge to be determined on the basis of an annual carrying charge in proportion to volumes of gas delivered to and used by each community. The estimated cost of the distribution system to be constructed by Altenburg is $58,000, and the estimated cost of the distribution system and transmission line to be constructed by Frohna is $84,000.

Applicants' estimated peak day and annual natural gas requirements for the first three years of operations are as follows:

	Mcf		
	First year	Second year	Third year
Altenburg:			
Peak day	115	138	172
Annual	10,200	12,100	15,200
Frohna:			
Peak day	149	162	183
Annual	22,230	23,160	29,650

On June 6, 1966, Respondent filed an answer and stated that it does not object to the granting of the application provided that it is ordered to establish physical connection of its transmission facilities with those to be constructed by the City of Frohna and to sell and deliver to Frohna the entire combined third year peak day gas requirements of both communities.

After due notice no petition to intervene, notice of intervention or protest to the granting of the application has been received.

The Commission finds:

(1) Applicants, the Cities of Altenburg and Frohna, Missouri, are municipal corporations organized and existing under the laws of the State of Missouri and

are legally empowered to construct and operate natural gas facilities and to sell and distribute natural gas in their respective communities.

(2) Respondent, Natural Gas Pipeline Company of America, a Delaware corporation having its principal place of business in Chicago, Illinois, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of October 13, 1942, in Docket No. G-235 (3 FPC 830).

(3) It is necessary and desirable in the public interest that Respondent be directed to establish physical connection of its natural gas transmission system with the facilities proposed to be constructed and operated by the City of Frohna and to sell and deliver natural gas to the City of Frohna for resale and distribution therein and for resale to the City of Altenburg for resale and distribution therein as hereinafter ordered and conditioned.

(4) The requirement that Respondent sell and deliver natural gas to the City of Frohna will not place an undue burden upon Respondent nor impair its ability to render adequate service to its existing customers.

The Commission orders:

(A) Respondent is directed to establish physical connection of its natural gas transmission system with the facilities proposed to be constructed and operated by the City of Frohna and to sell and deliver to the City of Frohna up to 355 Mcf of natural gas per day for resale and distribution therein and for resale to the City of Altenburg for resale and distribution therein, all as hereinbefore described and as more fully described in the application in this proceeding.

(B) The City of Frohna shall be prepared to receive natural gas from Respondent within one year from the date of this order.

(C) The City of Frohna shall execute a service agreement with Respondent in accordance with the Regulations under the Natural Gas Act.

(D) Respondent shall report to the Commission in writing the date of commencement of service within ten days thereof.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

MORRIS R. ANTWELL, D/B/A HOBBS PIPE AND SUPPLY COMPANY, ET AL., DOCKET NO. RI60-99, ET AL.[1]

ORDER ACCEPTING OFFER OF SETTLEMENT, REQUIRING FILING OF NOTICES OF CHANGE, REQUIRING REFUNDS AND TERMINATING PROCEEDINGS AS TO CONTRACTUAL ISSUES

(Issued August 1, 1966)

On March 1, 1966, the Commission issued an order in *Amerada Petroleum Corporation, et al.*, Docket No. G-16117, *et al.*, 35 FPC 285, approving a settlement proposal of certain contractual issues involved therein, and prescribing refunds. The proposal was filed by forty-three producer respondents, one of which was West Lake Natural Gasoline Company (West Lake). In accordance with the Commission's order, West Lake made refunds to its purchaser, El Paso Natural Gas Company (El Paso), to whom it sells natural gas under West Lake's FPC Gas Rate Schedule No. 1 from its South Lake Trammell Gasoline Plant, Nolan County, Texas.

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[1] The additional Respondents, and proceedings herein are set forth in the Appendix hereto.

On June 6, 1966, Respondents herein jointly filed an offer of settlement of the proceedings involving proposed rate increases for their sales of natural gas to West Lake, which were suspended by the Commission, and collected subject to refund for approximately the same period of time involved in West Lake's settlement.[2] Respondents are paid by West Lake at a rate equal to 50% of whatever rate it charges El Paso.[3]

The Commission's order in *Amerada* required West Lake to reduce its rate for the period involved herein from 13.9836¢ to 12.8385¢ per Mcf. Therefore, the proposed settlement rate of Respondents of 6.41928¢ reflects the same reduction in their proposed increases on a percentage basis in accordance with the terms of their contracts with West Lake. Additionally, Respondents propose to make refunds to West Lake in the same proportion of the amounts collected subject to refund as West Lake did in accordance with our our order approving the *Amerada* settlement. This will recompense West Lake for that portion of the refunds it has made to El Paso which the Respondents herein charged and collected from West Lake subject to refund for the period involved. West Lake shall therefore be permitted to retain such refunds from Respondents. The total amount of refunds to West Lake will be approximately $8453.54, inclusive of applicable interest. On June 15, 1966, West Lake filed a statement with the Commission confirming the refund calculations submitted by Respondents.

We believe the settlement proposal of the contractual issues involved herein is in the public interest, and we shall approve the same. These proceedings, however, will remain open pending the determination of the justness and reasonableness of the subject settlement rates. Our action is also without prejudice to any action that may be required as a contractual matter in the event West Lake's settlement rate is further reduced in Docket No. G–19156 for the period involved here.[4]

Our action herein shall not be construed as constituting approval of any past or future rate increases, if any, that may have been, or may be filed under the subject rate schedules, and is without prejudice to any findings or order of the Commission in any proceedings, including area rate or similar proceedings, involving the justness and reasonableness of each of the Respondents' rates and rate schedules.

The Commission finds:

The proposed settlement of the contractual issues involved in the subject proceedings on the basis described herein, as more fully set forth in the settlement proposal, and the appendix thereto, filed by Respondents on June 6, 1966, is in the public interest, and it is appropriate in carrying out the provisions of the Natural Gas Act that it be approved and made effective as hereinafter ordered.

The Commission orders:

(A) The settlement of the contractual issues in these proceedings on the basis of the settlement proposal filed by Respondents on June 6, 1966, is approved and made effective subject to the terms and conditions herein.

(B) The applicable settlement rates set out in the Appendix hereto are approved, and each Respondent, within 45 days from the issuance of this order, shall file appropriate supplements to its FPC Gas Rate Schedules reflecting the contract settlement rate in accordance with Part 154 of the Commission's Regulations under the Natural Gas Act. The effective date of each such settlement rate shall be the date specified in the Notice issued by the Commission permitting each of the applicable proposed increased rates involved in these proceedings to become effective, subject to refund.

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[2] On June 23, 1966, Sun Oil Company filed its joinder in the proposal.

[3] The contracts also contain certain minimum rate provisions.

[4] Under the Amerada order, West Lake's contract settlement rate is subject to a determination as to its justness and reasonableness.

(C) Each of the Respondents shall within 30 days of the issuance of this order refund to West Lake the amount of monies set forth in column (F) of the Appendix hereto, which includes applicable interest through April 30, 1966, and shall within 45 days of the issuance of this order file a statement from West Lake acknowledging receipt of such monies.

(D) Upon notification by the Secretary of the Commission to each of the Respondents that it has complied with the terms and conditions of this order, the proceedings concerning each of them shall be deemed terminated as to the contractual issues involved, without further order of the Commission.

(E) This order is without prejudice to any findings or order which have been made or may be made hereafter by the Commission, and is without prejudice to claims or contentions which may be made by each of the Respondents, the Commission staff, or any affected party hereto, in any proceedings now pending, including area rate or similar proceedings, or hereafter instituted by or against each of the Respondents, or any other companies, persons or parties affected by this order, and is not in any manner determinative of the justness and reasonableness of the settlement rates involved herein.

APPENDIX

Producer-Supplier (a)	FPC gas rate schedule No. (b)	Supplement No. (c)	Suspension docket No. (d)	Settlement rate (e)	Total refund [1] (f)
				Cents	
Morris R. Antwell, d/b/a Hobbs Pipe and Supply Company	[2] 2	2	RI60-99	6.41928	$73.47
El Paso Natural Gas Products Company (Now El Paso Products Company)	2	19	RI60-50	6.41928	1,509.46
	3	9	RI60-49	6.41928	379.62
	10	8	RI60-62	6.41928	24.70
C. L. McMahon, Inc.	[3] 3	3	RI60-63	6.41928	577.03
General American Oil Company of Texas	27	2	G-20285	6.41928	95.16
General Crude Oil Company	8	2	G-20554	6.41928	137.31
Hanley Company	28	2	RI60-99	6.41928	321.93
Humble Oil & Refining Company	141	2	G-20230	6.41928	998.28
Lamar Hunt Trust Estate	7	2	G-20559	6.41928	36.71
N. B. Hunt	11	1	RI60-312	6.41928	3.03
Jocelyn-Varn Oil Company, Agent for Oil & Minerals Investments, Inc.	6	1	RI60-20	6.41928	[4] 793.76
Phillips Petroleum Company	316	2	G-20349	6.41928	335.99
Shell Oil Company	173	2	G-20286	6.41928	297.37
Standard Oil Company of Texas, A Division of Chevron Oil Company	[5] 15	1	G-20284	6.41928	108.19
Sun Oil Company	100	3	RI60-56	6.41928	2,303.52
Sunray DX Oil Company	158	2	G-20348	6.41928	48.43
Texaco Inc.	277	2	RI60-61	6.41928	2.47
Union Oil Company of California	[6] 112	2	RI60-47	6.41928	366.03
	[7] 121	6	RI60-48	6.41928	41.08
Total					8,453.54

[1] Includes interest computed through April 30, 1966.

[2] Formerly Hanley Company Rate Schedule No. 28.

[3] Redesignated as Forest Oil Corporation FPC Gas Rate Schedule No. 20 effective December 1, 1961.

[4] For period ending January 31, 1966.

[5] Formerly Standard Oil of Texas, A Division of California Oil Company Rate Schedule No. 32.

[6] Formerly The Pure Oil Company Rate Schedule No. 32.

[7] Formerly The Pure Oil Company Rate Schedule No. 41.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

CENTRAL ILLINOIS PUBLIC SERVICE COMPANY AND PANHANDLE EASTERN PIPE LINE COMPANY, DOCKET NO. CP66-367

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued August 1, 1966)

On May 16, 1966, Central Illinois Public Service Company (Applicant) filed in Docket No. CP66-367 an application pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Panhandle Eastern Pipe Line Company (Respondent) to establish physical connection of its natural gas transmission facilities with the facilities to be constructed by Applicant, to construct a measuring and regulating station and to sell and deliver to Applicant volumes of natural gas for resale and distribution in the Villages of Alsey and Glasgow, Scott County, Illinois, and their environs, all as more fully set forth in the application.

Applicant proposes to construct, own, operate and maintain a 4-inch and 2-inch gas distribution main extending from a point of proposed connection with the gas transmission main of Respondent approximately one-half mile north of the Village of Alsey to the Villages of Alsey and Glasgow, and to construct, operate and maintain gas distribution systems in the Villages of Alsey and Glasgow and their environs.

The estimated volumes of natural gas required to supply the Villages' annual and peak day requirements for the initial three years of proposed operations are stated to be:

	First year	Second year	Third year
Annual (Mcf)	16,720	24,347	28,775
Peak day (Mcf)	160	232	278

Natural gas service to Applicant will be made under Respondent's G-2 Rate Schedule, FPC Gas Tariff Original Volume No. 1.

Applicant was granted a certificate of public convenience and necessity from the Illinois Commerce Commission, effective April 5, 1966, to construct the aforementioned facilities and to serve customers in the Villages of Alsey and Glasgow and their environs in Scott County, Illinois.

Due notice of the filing of the application was published in the Federal Register on June 3, 1966 (31 F.R. 7924). No protest, petition to intervene or notice of intervention has been filed.

The Commission finds:

(1) Panhandle Eastern Pipe Line Company, a Delaware corporation having its principal place of business in Kansas City, Missouri, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of September 23, 1942, in Docket Nos. G-200 and G-207 (3 FPC 273).

(2) Applicant is a public utility company in the State of Illinois and is authorized to construct and operate facilities to distribute and sell natural gas to inhabitants of the communities along its system.

(3) It is necessary and desirable in the public interest that Respondent be directed to establish a physical connection of its transportation facilities with the facilities proposed to be constructed by Applicant and to sell and deliver up to 278 Mcf of natural gas per day to Applicant, as hereinbefore described and as more fully set forth in the application, as hereinafter ordered and conditioned.

(4) The requirement that Respondent serve Applicant, as requested, will not place an undue burden upon Respondent nor impair its ability to render service to existing customers.

The Commission orders:

(A) Respondent is directed to establish physical connection of its natural gas transmission system with the facilities to be constructed by Applicant and to sell and deliver up to 278 Mcf of natural gas per day to Applicant, all as hereinbefore described and as more fully described in the application.

(B) Applicant shall be prepared to receive natural gas from Respondent within one year from the date of this order.

(C) Respondent shall notify the Commission of the commencement of service within 10 days thereof.

(D) Respondent shall execute and file with the Commission a service agreement with Applicant in accordance with the Commission's Regulations.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

KASKASKIA GAS COMPANY AND MISSISSIPPI RIVER TRANSMISSION CORPORATION, DOCKET NO. CP66-63

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued August 1, 1966)

On August 25, 1965, Kaskaskia Gas Company (Applicant), filed in Docket No. CP66-63 an application as supplemented on March 7, and May 12, 1966, pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Mississippi River Transmission Corporation (Respondent) to establish physical connection of its natural gas transmission facilities with the facilities proposed to be constructed by Applicant, and to sell and deliver natural gas to Applicant for resale and distribution in the community of Huey, Illinois, and environs, all as more fully set forth in the application and supplements thereto.

Applicant proposes (1) to construct a natural gas distribution system in Huey and approximately 0.28 mile of 2-inch lateral transmission line, and (2) to receive deliveries of gas for Huey at a point on Respondent's main transmission line in Marion County, Illinois, approximately 0.28 mile south of Huey. The Illinois Commerce Commission, on February 8, 1966, issued an order authorizing Applicant to serve the Huey area.

The total estimated volumes of natural gas necessary to meet Applicant's annual and peak day requirements for Huey in the initial three-year period of proposed operations are stated to be:

	First year	Second year	Third year
Annual (Mcf)	3,800	5,700	8,000
Peak day (Mcf)	36	54	77

The estimated cost of Applicant's proposed construction is $31,000, and will be financed by the issuance of common stock and a bank loan.

On August 26, 1965, Respondent was duly advised of the application filed in this proceeding, and due notice of the filing and opportunity for hearing thereon has been given by publication in the Federal Register on September 10, 1965 (30 F.R. 11655). No protest, petition to intervene[1] or request for hearing has been filed in this proceeding.

The Commission finds:

(1) Respondent, Mississippi River Transmission Corporation, a Delaware corporation having its principal place of business in St. Louis, Missouri, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of November 29, 1960, in Docket No. CP60–95 (24 FPC 1020).

(2) Applicant, Kaskaskia Gas Company, an Illinois corporation having its principal place of business in Salem, Illinois, is a corporation legally authorized to engage in the local distribution of natural gas to the public within the meaning of Section 7(a) of the Natural Gas Act.

(3) It is necessary and desirable in the public interest to direct Respondent to establish physical connection of its transmission facilities with the facilities proposed to be constructed and operated by Applicant, and to sell and deliver to Applicant under a service agreement to be executed by Applicant with Respondent in accordance with the Commission's Regulations, up to 77 Mcf per day of natural gas for distribution and resale as hereinbefore described.

(4) The requirement that Respondent serve Applicant, as hereinafter ordered, will not impair its ability to render adequate service to its existing customers.

(5) Applicant should be prepared to receive natural gas from Respondent for distribution in Huey, Illinois, and environs within one year from the date of the issuance of this order.

The Commission orders:

(A) Mississippi River Transmission Corporation is directed to establish physical connection of its facilities with the facilities proposed to be constructed and operated by Applicant, as herein described, and to sell and deliver up to 77 Mcf of natural gas daily to Applicant under a service agreement to be executed by Applicant with Respondent in accordance with the Commission's Regulations, for distribution and resale as hereinbefore described.

(B) Respondent shall report to the Commission in writing the date of commencement of service to Applicant within 10 days thereof.

(C) Applicant shall be prepared to receive service as directed herein within one year from the date of issuance of this order.

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[1] Petition to intervene filed September 27, 1965, was withdrawn by Illinois Power Company on May 18, 1966, and became effective June 18, 1966, by Commission approval on June 21, 1966.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

NORTHERN NATURAL GAS COMPANY, DOCKET NO. CP66-326

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 1, 1966)

On April 14, 1966, Northern Natural Gas Company (Applicant) filed in Docket No. CP66-326 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction, relocation and operation of certain natural gas facilities in Midland, Upton and Schleicher Counties, Texas, all as more fully set forth in the application in this proceeding.

Specifically, Applicant proposes the following:

(1) To construct and operate a new 2,000 horsepower unit at the Florey Compressor Station to compress volumes of gas received from the Spraberry Compressor Station;

(2) To construct and operate 0.7 mile of 12-inch tie-over between the present 16-inch line from Andrews Compressor Station and the 30-inch discharge line at Florey. Applicant states that this tie-over line will permit delivery of Andrews County gas into the discharge of the Florey Station as well as the suction as presently operated;

(3) To relocate a 1,320 horsepower unit from the Plymouth Compressor Station to the Spraberry Station. Applicant states that this unit together with a presently installed 1,350 horsepower unit at Spraberry will be utilized to compress gas received from the Eldorado Station. Further, Applicant states that the proposed relocation will not result in any abandonment of service and that the remaining horsepower at the Plymouth Station will be sufficient to compress estimated volumes of gas delivered to that station, and

(4) Certain piping modifications at the Eldorado Station resulting in split suction at this station.

The total estimated cost of Applicant's proposals is $1,165,800, which cost will be financed from cash on hand.

Applicant states that the proposed construction, relocation and operation of facilities will increase the capacity of Northern's East Leg System in its Permian Basin supply area for the transportation of additional gas purchase commitments.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on July 28, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Northern Natural Gas Company, a Delaware corporation having its principal place of business in Omaha, Nebraska, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of April 6, 1943, in Docket No. G-280 (3 FPC 967).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and

the construction, relocation and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction, relocation and operation of the subject facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Applicant, Northern Natural Gas Company, to construct, relocate and operate the subject facilities as hereinbefore described, all as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be constructed, relocated and placed in actual operation, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within six months from the date on which this order issues.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

WARREN PETROLEUM CORPORATION (OPERATOR), ET AL., DOCKET NO. G-20478, ET AL.; LONE STAR GAS COMPANY, RP60-4; CITIES SERVICE GAS COMPANY, RP65-21; NATURAL GAS PIPELINE COMPANY OF AMERICA, RP65-25

ORDER RELEASING REFUNDS IN PART

(Issued August 1, 1966)

Lone Star Gas Company (Lone Star), filed on February 1, 1966, in the above-styled proceeding, a Motion for Reconsideration and Modification of "Order Requiring Report of Intended Disposition of Refunds and Releasing Refunds in Part". The motion is directed specifically to paragraphs (C) and (F) of the Commission's order issued December 30, 1965, 34 FPC 1616, which among other things, directed Warren Petroleum Corporation, Kerr-McGee Corporation and Texaco Inc. (WKT) to make refunds, and to retain certain amounts refundable to Lone Star under Docket Nos. RI63-486, RI63-460 and RI64-69 (the "RI" dockets), pending further order of the Commission.

The amounts which WKT were ordered to refund are those resulting from the difference between a final settlement rate of 14.0¢ and an initial proposed increased rate of 16.8¢ per Mcf suspended in G–20478, *et al.* This amount Lone Star had advised[1] the Commission it would flow-through to Natural in accordance with its refund obligation order in Docket No. RP60–4.[2] The amounts which WKT were ordered to retain reflect the difference between the 16.8¢ rate and a subsequently proposed 17.9¢ rate, which Lone Star claims it should be permitted to retain. Lone Star's claimed right to retain the amounts relating to the increase from 16.8¢ per Mcf to 17.9¢ per Mcf has been the subject of continuing discussions between representatives of Lone Star and the Commission Staff.

By letter of June 22, 1966, Lone Star requested the Commission to release that portion of the amounts retained by WKT which is attributable to Lone Star's non-jurisdictional sales. A release of refundable amounts which are applicable to non-jurisdictional operations of a natural gas company is in keeping with our announced purposes regarding flow-through of refunds. In Texas Eastern Transmission Corporation, Docket No. RP66–12, the Commission stated:

> In keeping with our purpose heretofore expressed, we should note that upon a proper showing by Texas Eastern that any portion of the refunds being retained by its suppliers is applicable to its non-jurisdictional sales we shall direct the suppliers to release and pay such amounts to Texas Eastern.

Available data and Lone Star's letter of June 22, 1966, indicate that of the amount of $284,493.78 being retained by WKT pursuant to our order, $185,205.71 is allocable to Lone Star's non-jurisdictional sales. We are of the view that release of the latter amount to Lone Star is appropriate. Our action herein is not intended to limit any authority which we may otherwise exercise, nor any position which Lone Star may take, in respect of the amount of $99,288.07 which WKT is hereby ordered to retain.

The Commission orders:

(A) WKT shall release and pay over to Lone Star within 30 days of the date of this order the amount of $185,205.71, together with any earnings on this amount held in escrow from June 3, 1965, to the date of this order.

(B) Pending further order of the Commission, WKT shall retain the remaining amounts refundable to Lone Star in accordance with paragraphs (D) and (E) or (F) of the Commission's order issued June 3, 1965.

(C) Within 60 days of the date of this order WKT shall file a report as evidence that it has complied with paragraphs (A) and (B) of this order and setting forth the amount paid showing principal and interest and the amount retained showing principal and interest.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

WISCONSIN GAS COMPANY AND MICHIGAN WISCONSIN PIPE LINE COMPANY, DOCKET NO. CP66–389

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued August 1, 1966)

On May 26, 1966, Wisconsin Gas Company (Applicant) filed in Docket No. CP66–389 an application pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Michigan Wisconsin Pipe Line Company (Respondent) to establish physical connection of its transmission facilities with the proposed facilities of Applicant and to sell and deliver to Applicant up to 973 Mcf of natural gas per day for resale and distribution in the communities of Pulaski and Krakow, Wisconsin, and their respective environs, all as more fully set forth in the application in this proceeding.

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[1] By letter dated December 14, 1965.

[2] See order issued December 1, 1961, 26 FPC 790.

Pursuant to its "10-cent formula", Respondent will construct 4.4 miles of 4-inch transmission pipeline extending from a point on Respondent's Marinette Lateral to a measuring station also to be constructed by Respondent. Applicant proposes to construct and operate the remaining 8.2 miles of the required lateral transmission line for Krakow and Pulaski as well as the necessary distribution systems for the two communities proposed to be served.

The total estimated third year peak day and annual requirements for Krakow and Pulaski are 973 Mcf and 143,363 Mcf, respectively.

The total estimated cost of Applicant's proposed facilities is $353,456, which cost will be financed from cash on hand and short-term borrowings.

Applicant states that it has received the necessary authorizations from Pulaski and Krakow and from the Public Service Commission of Wisconsin.

On June 17, 1966, Respondent filed an answer to the subject application stating that it had no objection to the requested order.

Due notice of the filing of the application and opportunity for hearing thereon has been given by publication in the Federal Register on June 10, 1966 (31 F.R. 8203). No protest or petition to intervene has been filed in this proceeding.

The Commission finds:

(1) Respondent, Michigan Wisconsin Pipe Line Company, a Delaware corporation having its principal place of business in Detroit, Michigan, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of November 30, 1946, in Docket No. G–669 (5 FPC 953).

(2) Applicant, Wisconsin Gas Company, is a public utility organized under the laws of the State of Wisconsin and is legally authorized to engage in the local distribution of natural gas to the public within the meaning of Section 7(a) of the Natural Gas Act.

(3) It is necessary and desirable in the public interest to direct Respondent to establish physical connection of its natural gas transportation system with the proposed facilities of Applicant and to sell and deliver to Applicant, under a service agreement to be executed by Applicant and Respondent, in accordance with the Commission's Regulations, up to 973 Mcf per day of natural gas for distribution and resale as hereinbefore described and as more fully set forth in the application in this proceeding.

(4) The requirement that Respondent serve Applicant as hereinafter ordered will not impair Respondent's ability to render adequate service to its existing customers.

(5) Applicant should be prepared to receive natural gas from Respondent for distribution in Pulaski and Krakow, and their respective environs, within one year from the date of issuance of this order.

The Commission orders:

(A) Michigan Wisconsin Pipe Line Company is directed to establish physical connection of its facilities with the facilities proposed to be constructed and operated by Applicant, as herein described, and to sell and deliver up to 973 Mcf of natural gas per day to Applicant under a service agreement to be executed by Applicant with Respondent in accordance with the Commission's

Regulations. Such service shall be rendered pursuant to Respondent's presently filed appropriate rate schedule.

(B) Respondent shall report to the Commission in writing the date of commencement of service to Applicant within 10 days after such service begins.

(C) Applicant shall be prepared to receive service as directed herein within one year from the date of issuance of this order.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

TOWN OF ARTESIA, MISSISSIPPI AND SOUTHERN NATURAL GAS COMPANY, DOCKET NO. CP66-403

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued August 2, 1966)

On June 7, 1966, the Town of Artesia, Mississippi, (Applicant), filed in Docket No. CP66-403 an application pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Southern Natural Gas Company (Respondent) to establish physical connection of its transportation facilities with the facilities proposed to be constructed by Applicant and to sell and deliver to Applicant from Respondent's West Point Armory branchline volumes of natural gas up to 155 Mcf daily for resale and distribution in the Town of Artesia, all as more fully set forth in the application.

Applicant proposes to construct a distribution system together with automatic regulators and odorizers and approximately 0.833 mile of 3-inch high pressure transmission pipeline.

The proposed physical connection with Respondent will consist of a metering and regulator station installed by Respondent at a point in Lowndes County, Mississippi, approximately ¾ mile east of the corporate limits of Artesia, Mississippi.

The total estimated volumes of natural gas involved to meet Applicant's annual and peak day requirements for the initial three year period of proposed operations are stated to be:

	First year	Second year	Third year
Annual (Mcf)	8,902	10,943	12,728
Peak day (Mcf)	110	134	155

The total estimated cost of Applicant's proposed construction is $87,000, which will be financed through the issuance of Natural Gas System Revenue Bonds.

Respondent filed an answer in this proceeding on July 5, 1966, stating it had no objection to the granting of the requested order for service.

Due notice of the filing of the application and opportunity for hearing thereon has been given by publication in the Federal Register on June 24, 1966 (31 F.R. 8844). No protest, petition to intervene, or request for hearing has been filed in this proceeding.

The Commission finds:

(1) Southern Natural Gas Company, a Delaware corporation having its principal place of business in Birmingham, Alabama, is a "natural-gas com-

pany" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order dated October 6, 1942, in Docket No. G–296 (3 FPC 822).

(2) Applicant, is legally authorized to engage in the local distribution of natural gas to the public within the meaning of Section 7(a) of the Natural Gas Act.

(3) It is necessary and desirable in the public interest to direct Respondent to establish physical connection of its transmission facilities with the facilities proposed to be constructed and operated by Applicant, and to sell and deliver to Applicant under a service agreement to be executed by Applicant with Respondent in accordance with the Commission's Regulations up to 155 Mcf per day for distribution and resale as hereinbefore described and as more fully described in the application in this proceeding.

(4) Applicant should be prepared to receive natural gas from Respondent for distribution in the Town of Artesia, Mississippi, within one year from the date of the issuance of this order.

(5) The requirement that Respondent serve Applicant, as requested, will not impair its ability to render adequate service to existing customers.

The Commission orders:

(A) Southern Natural Gas Company is directed to establish physical connection of its facilities with the facilities proposed to be constructed and operated by Applicant, and to sell and deliver to Applicant up to 155 Mcf of natural gas daily under a service agreement to be executed by Applicant with Respondent in accordance with the Commission's Regulations, as hereinbefore described, for transportation, distribution and resale as hereinbefore described. Such service shall be rendered pursuant to Respondent's presently filed appropriate rate schedule.

(B) Respondent shall report to the Commission the date of commencement of service to Applicant within 10 days after such service begins.

(C) Applicant shall be prepared to receive service as directed herein within one year from the date of issuance of this order.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

THE ATLANTIC REFINING COMPANY, DOCKET NO. G–9283, ET AL. AND UNITED FUEL GAS COMPANY, DOCKET NO. RP65–22

ORDER REJECTING APPLICATION FOR REHEARING AND DENYING REQUEST FOR RECONSIDERATION

(Issued August 2, 1966)

United Fuel Gas Company (United Fuel) on June 24, 1966, filed an application for rehearing and reconsideration of the Commission's "Order Releasing Refunds in Part" issued May 24, 1966, 35 FPC 763 in The Atlantic Refining Company, Docket Nos. G–9283 and G–9284, *et al.* That order, in carrying out the procedure outlined in our prior order in those proceedings[1] which approved the settlement of Atlantic's rate proceedings, directed the release of the portions of Atlantic's refund which would flow through to the limits of our jurisdictional reach and ordered the retention of the remainder.

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[1] Order Approving Rate Settlement Proposal, Severing and Terminating Proceedings and Prescribing Refunds, *The Atlantic Refining Company,* Docket Nos. G–9283 and G–9284, *et al.,* issued October 8, 1964, 32 FPC 933.

In its present application United Fuel advances the same contentions and arguments presented in its application for rehearing filed May 21, 1965, in *Humble Oil & Refining Company*, Docket No. G–9287, *et al.* Our order issued June 14, 1965, 33 FPC 1263, in those proceedings rejected United Fuel's[2] application for rehearing and denied the request for reconsideration and fully set forth the basis for our action.

We believe that the views expressed in the aforementioned order issued June 14, 1965 are fully dispositive of the contentions.reiterated by United Fuel in its application herein. The determination and conclusion set forth in that June 14 order, which are herein incorporated by this reference apply with equal weight to the instant application.

The Commission orders:

(A) United Fuel's application for rehearing of our order issued May 24, 1966, hereby is rejected.

(B) United Fuel's pleading classified as a request for reconsideration hereby is denied.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

FLORIDA GAS TRANSMISSION COMPANY, DOCKET NO. CP66–368

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 2, 1966)

On May 16, 1966, Florida Gas Transmission Company (Applicant) filed in Docket No. CP66–368 an application pursuant to Section 7(c) of the Natural Gas Act, as implemented by Section 157.7(b) of the Regulations under the Act, for a certificate of public convenience and necessity authorizing the construction during the twelve months period commencing July 1, 1966, and the operation of gas purchase facilities to enable Applicant to take into its certificate main pipeline system natural gas which will be purchased from producers or other similar sellers thereof, all as more fully set forth in the application in this proceeding.

The purpose of this "budget-type" application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system new supplies of natural gas in various producing areas generally coextensive with said system.

The total cost of the facilities covered by this application will not exceed a maximum of $1,000,000, with no single project to exceed a cost of $250,000, which costs will be financed from internally generated funds.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on July 28, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

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[2] The order also disposed of the similar application filed by Texas Eastern Transmission Corporation.

The Commission finds:

(1) Applicant, Florida Gas Transmission Company, a Delaware corporation having its principal place of business in Winter Park, Florida, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of December 28, 1956, in Docket Nos. G-9262 and G-9960 (16 FPC 118).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Applicant should submit within 60 days after expiration of the authorization granted hereinafter, a statement in compliance with Section 157.7(b)(3) of the Commission's Regulations under the Natural Gas Act.

(6) Public convenience and necessity require that the certificate hereinafter issued and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e), and (f) of Section 157.20 of said Regulations.

(7) The authorization hereinafter granted should be limited to construction during the twelve months period commencing July 1, 1966, and the total expenditures for facilities to be constructed thereunder should be limited to a maximum of $1,000,000, with no single project to exceed a cost of $250,000.

The Commission orders:

(A) Upon the terms and conditions of this order, a certificate of public convenience and necessity is issued authorizing Applicant, Florida Gas Transmission Company, to construct during the twelve months period commencing July 1, 1966, the proposed facilities hereinbefore described, as more fully described in the application in this proceeding, and to operate such facilities only to take natural gas supplies from producers or other similar sellers who have received authorization from the Commission to sell natural gas to said Applicant.

(B) Applicant shall submit within 60 days after the expiration of the authorization granted by paragraph (A) above a statement in compliance with Section 157.7(b)(3) of the Commission's Regulations under the Natural Gas Act.

(C) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e), and (f) of Section 157.20 of said Regulations.

(D) The authorization granted in paragraph (A) above is limited to construction during the twelve months period commencing July 1, 1966, and the total expenditures for facilities to be constructed thereunder are limited to a maximum of $1,000,000, with no single project to exceed a cost of $250,000.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

ACCOUNTING FOR FEES PAID PURSUANT TO PART 159 BY NATURAL GAS PIPELINE COMPANIES IN CONNECTION WITH CERTIFICATE AND OTHER APPLICATIONS, DOCKET NO. R-307

ORDER NO. 325

AMENDING UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR NATURAL GAS COMPANIES

(Issued August 2, 1966)*

Following a formal rulemaking proceeding initiated by a notice of proposed rulemaking in Docket No. R-282, the Commission, on January 5, 1966, issued Order No. 317 in which it promulgated Part 159 of its Regulations under the Natural Gas Act prescribing fees to be paid by natural gas pipeline companies in connection with applications for certificates and certain other authorizations. 35 FPC 30, 31 F.R. 430, 18 CFR, Part 159.

Although the regulation thus promulgated prescribed, in § 159.4, the accounting treatment to be followed in recording the fees, the order did not amend the specific accounts in the Uniform System of Accounts which were directed to be used. Consequently, we are now incorporating the accounting treatment there prescribed as a new Gas Plant Instruction in the system of accounts and revising the texts of the particular accounts involved in this matter to reflect the accounting treatment prescribed with respect to these fees.

The Commission finds:

(1) It is necessary and appropriate for the administration of the Natural Gas Act that the amendments set forth in this order be made to the Uniform System of Accounts Prescribed for Natural Gas Companies of all classes.

(2) Since the amendments herein prescribe accounting treatment of fees established after notice and opportunity to be heard, further notice under section 4 of the Administrative Procedure Act is unnecessary.

The Commission, acting pursuant to the authority of the Natural Gas Act, as amended, particularly sections 8 and 16 thereof (52 Stat. 825, 830; 15 U.S.C. 717g, 717o), *orders:*

(A) The Uniform System of Accounts prescribed for Class A and Class B natural gas companies by Part 201, Subchapter F of Chapter I, Title 18 of the Code of Federal Regulations, is amended by—

(1) adding to the Gas Plant Instructions the following new paragraph 16:

"Part 201 Uniform System of Accounts Prescribed for Natural Gas Companies (Class A and Class B) * * *

Gas Plant Instructions

* * * * * * *

16. *Fees for applications filed with the Commission.*

A. Fees for applications involving construction of property shall be accounted for as follows:

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*Published in the Federal Register on August 9, 1966 (31 F.R. 10605).

(1) All fees paid prior to the final disposition of the certificate application shall be charged to account 186, Miscellaneous Deferred Debits.

(2) If the certificate is granted and accepted, the amounts recorded in account 186 shall be clear to account 107, Construction Work in Progress—Gas, and subsequently cleared to the appropriate plant accounts.

(3) If the certificate requested is not granted or is not accepted by the applicant, the fees recorded in account 186 shall be cleared to account 928, Regulatory Commission Expenses.

(4) All amounts paid after the Commission has granted the certificate shall be recorded in account 107, Construction Work in Progress—Gas, and subsequently cleared to the appropriate plant accounts.

B. All amounts paid related to certificate applications involving the acquisitions of facilities including those acquired by merger or pooling of interests shall be charged to account 928, Regulatory Commission Expenses.

C. All other fees for applications not involving construction or acquisition of facilities shall be charged to account 928, Regulatory Commission Expenses.

(2) Adding to Account 107, Construction work in progress—Gas, the following Note:

107 Construction work in progress—Gas

* * * * * * *

NOTE: This account to include certificate application fees paid to the Federal Power Commission as provided for in gas plant instruction 16.

(3) revising paragraph A of Account 186, Miscellaneous deferred debits, to read as follows:

186 Miscellaneous deferred debits

A. This account shall include all debits not elsewhere provided for, such as miscellaneous work in progress, construction certificate application fees paid prior to final disposition of the application as provided for in gas plant instruction 16A, and unusual or extraordinary expenses not included in other accounts which are in process of amortization, and items the final disposition of which is uncertain.

(4) adding to Account 928, Regulatory commission expenses, the following under "Items":

928 Regulatory commission expenses

* * * * * * *

ITEMS

* * * * * * *

3. All application fees except those involving construction certificate applications which have been approved. (See Gas Plant Instruction 16.)"

(B) The Uniform System of Accounts prescribed for Class C natural gas companies by Part 204 of said Subchapter F is amended by—

(1) adding to the Gas Plant Instructions the following new paragraph 14:

"Part 204 Uniform System of Accounts Prescribed for Natural Gas Companies (Class C) * * *

* * * * * * *

Gas Plant Instructions

* * * * * * *

13. *Fees for applications filed with the Commission.*

A. Fees for applications involving construction of property shall be accounted for as follows:

(1) All fees paid prior to the final disposition of the certificate application shall be charged to account 183, Other Deferred Debits.

(2) If the certificate is granted and accepted, the amounts recorded in account 183 shall be cleared to the appropriate plant accounts.

(3) If the certificate requested is not granted or is not accepted by the applicant, the fees recorded in account 183 shall be cleared to account 928, Regulatory Commission Expenses.

(4) All amounts paid after the Commission has granted the certificate shall be recorded in account 107, Construction Work in Progress—Gas; and subsequently cleared to the appropriate plant accounts.

B. All amounts paid related to certificate applications involving the acquisition of facilities including those acquired by merger or pooling of interests shall be charged to account 928, Regulatory Commission Expenses.

C. All other fees for applications not involving construction or acquisition of facilities shall be charged to account 928, Regulatory Commission Expenses.

(2) adding to Account 107, Construction work in progress—Gas, the following Note:

107 Construction work in progress—Gas

* * * * * * *

NOTE: This account to include certificate application fees paid to the Federal Power Commission as provided for in gas plant instruction 14.

(3) adding to Account 183, Other deferred debits, the following, after Item A(5):

183 Other deferred debits

A. This account shall include the following classes of items:

* * * * * * *

(6) All fees related to certificate applications involving construction paid prior to the final disposition of the certificate application. If the certificate is granted and accepted, the amount recorded in this account shall be credited with the amount applicable thereto and charged to the appropriate plant accounts. If the certificate requested is not granted or is not accepted by the applicant, the fees recorded in this account shall be cleared to account 928, Regulatory Commission Expenses.

(4) adding to Account 928, Regulatory commission expenses, the following, under "Items":

928 Regulatory commission expenses

* * * * * * *

ITEMS

* * * * * * *

3. All application fees except those involving construction certificate applications which have been approved. (See Gas Plant Instruction 14.)"

(C) The Uniform System of Accounts prescribed for Class D natural gas companies by Part 205 of said Subchapter F is amended by—

(1) revising present Gas Plant Instruction 2 to read as follows:

"Part 205 Uniform System of Accounts Prescribed for Natural Gas Companies (Class D) * * *

* * * * * * *

Gas Plant Instructions

* * * * * * *

2. Components of Construction Cost

The cost of construction of property chargeable to the gas plant accounts shall include, where applicable, fees for construction certificate applications paid after grant of certificate, the cost of labor, materials and supplies, transportation, work done by others for the utility, injuries and damages incurred in construction work, privileges and permits, special machine service, interest during construction and such portion of general engineering, administrative salaries and expenses, insurance, taxes and other analogous items as may be properly includible in construction costs.

(2) adding to the Gas Plant Instructions the following new paragraph 7:

Gas Plant Instructions

* * * * * * *

7. *Fees for applications filed with the Commission.*

A. Fees for applications involving construction of property shall be accounted for as follows:

(1) All fees paid prior to the final disposition of the certificate application shall be charged to account 183, Other Deferred Debits.

(2) If the certificate is granted and accepted, the amounts recorded in account 183 shall be cleared to the appropriate plant accounts.

(3) If the certificate requested is not granted or is not accepted by the applicant, the fees recorded in account 183 shall be cleared to account 776, Regulatory Commission Expenses.

(4) All amounts paid after the Commission has granted the certificate shall be recorded as a component of construction cost.

B. All amounts paid related to certificate applications involving the acquisition of facilities including those acquired by merger or pooling of interests shall be charged to account 776, Regulatory Commission Expenses.

C. All other fees for applications not involving construction or acquisition of facilities shall be charged to account 776, Regulatory Commission Expenses.

(3) adding to Account 183, Other deferred debits, the following, after Item A(5):

183 Other deferred debits

* * * * * * *

(6) All fees related to certificate applications involving construction paid prior to the final disposition of the certificate application. If the certificate is granted and accepted, the amount recorded in this account shall be credited with the amount applicable thereto and charged to the appropriate plant accounts. If the certificate requested is not granted or is not accepted by the applicant, the fees recorded in this account shall be cleared to account 776, Regulatory Commission Expenses.

(4) adding to Account 776, Regulatory commission expenses, the following, after Item C:

776 Regulatory commission expenses

* * * * * * *

D. This account shall include all application fees except those involving construction certificate applications which have been approved. (See Gas Plant Instruction 7.)" (Secs. 8, 16, 52 Stat. 825, 830; 15 U.S.C. 717g, 717o)

(D) The amendments herein prescribed shall be effective September 2, 1966.

(E) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

PANHANDLE EASTERN PIPE LINE COMPANY, DOCKET NO. CP66-228

FINDINGS AND ORDER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 2, 1966)

On June 6, 1966, Panhandle Eastern Pipe Line Company (Petitioner) filed in Docket No. CP66-228 a petition to amend the Commission's order, issued April 29, 1966, 35 FPC 653, in said docket, by authorizing the construction and operation of a supply pipeline extension through Ellis and Woodward Counties, Oklahoma, all as more fully set forth in the petition to amend in this proceeding.

The order of April 29, 1966, authorized Petitioner to construct and operate a supply pipeline extending from its existing Elk City line through Dewey and Ellis Counties, Oklahoma, and terminating in Hemphill County, Texas. Said extension is to enable Petitioner to take gas supplies contracted for in Hemphill and Ellis Counties.

Petitioner states herein that, subsequent to the filing of its original application in this proceeding, it has entered into gas purchase contracts with Atlantic Richfield Company, J. M. Huber Corporation and Shell Oil Company for the sale of gas produced in the Gage and Tangier fields in Ellis and Woodward Counties. Accordingly, Petitioner requests that the order of April 29, 1966, be amended to authorize the construction and operation of an additional supply extension in order to take gas purchased under these new contracts. Petitioner also states that the proposed additional extension will further stimulate the development of additional supplies of gas in this area.

Specifically, Petitioner proposes to construct approximately 31.7 miles of 6-inch to 12-inch line northward through Ellis and Woodward Counties from a point on the supply line heretofore authorized in this docket but not yet constructed. The total estimated cost of the proposed facilities is $941,000, which cost will be financed from general corporate sources.

Due notice of the filing of the petition to amend and opportunity for hearing thereon has been given by publication in the Federal Register on June 30, 1966 (31 F.R. 9032). No protest or petition to intervene has been filed in this proceeding.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's order issued April 29, 1966, in Docket No. CP66-228 be amended as hereinafter ordered.

The Commission orders:

(A) The Commission's order issued April 29, 1966, in Docket No. CP66-228 is amended by authorizing Petitioner to construct and operate the proposed additional supply pipeline extension through Ellis and Woodward Counties, Oklahoma, as hereinbefore described and as set forth in the petition to amend.

(B) In all other respects said order shall remain in full force and effect.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

CITY OF SHELBINA AND PANHANDLE EASTERN PIPE LINE COMPANY, DOCKET NO. CP66-329; CITY OF CLARENCE AND PANHANDLE EASTERN PIPE LINE COMPANY, DOCKET NO. CP66-330

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALES OF NATURAL GAS

(Issued August 2, 1966)

On April 18, 1966, the City of Shelbina, Missouri, filed in Docket No. CP66-329 an application pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Panhandle Eastern Pipe Line Company (Respondent) to establish physical connection of its transportation facilities with the facilities proposed to be constructed by the City of Shelbina and to sell and deliver to the City of Shelbina volumes of natural gas for resale and distribution in the City of Shelbina, all as more fully set forth in the application.

The community of Shelbina is located in Shelby County in northeastern Missouri, approximately 40 miles west of Hannibal, Missouri, has a population of approximately 2,067, and is situated approximately 43 miles north of Respondent's main transmission line in Missouri.

The City of Shelbina proposes to construct and operate a natural gas distribution system within its borders and a 4-inch lateral transmission line approximately 5 miles in length, extending west from the City border to an interconnection with a common 6-inch transmission line to be jointly owned by the City of Shelbina and the City of Clarence, Missouri. The City of Shelbina proposes that deliveries of its gas requirement be made at the point of interconnection with Respondent's main transmission line and that said gas be transmitted through the jointly-owned transmission line to a point of interconnection with Shelbina's 4-inch lateral for further transmission by Shelbina to the City of Shelbina. The application states that 68 percent of this jointly-owned transmission line would be owned by Shelbina, and 32 percent by the City of Clarence. The proposed transmission line would be approximately 38 miles in length.

The total estimated volumes of natural gas involved to meet the City of Shelbina's annual and peak day requirements for the initial three year period of proposed operations are stated to be:

	First year	Second year	Third year
Annual (Mcf)	245,426	269,490	291,889
Peak day (Mcf)	1,576	1,792	1,971

The total estimated cost of the City of Shelbina's proposed transmission and distribution facilities is $960,000, which will be financed through the issuance of Gas Revenue System Bonds.

On April 18, 1966, the City of Clarence, Missouri, filed in Docket No. CP66-330 an application pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Panhandle Eastern Pipe Line Company (Respondent) to establish physical connection of its transportation facilities with the facilities proposed to be constructed by the City of Clarence and to sell and deliver to the City of Clarence volumes of natural gas for resale and distribution in the City of Clarence, all as more fully set forth in the application.

The community of Clarence is located in Shelby County in northeastern Missouri, approximately 50 miles west of Hannibal, Missouri, has a population of approximately 1,103, and is situated approximately 46 miles north of Respondent's main transmission line in Missouri.

The City of Clarence proposes to construct a natural gas distribution system within its borders and a 3-inch lateral transmission line approximately 8 miles in length, extending east and south from its border to an interconnection with a common 6-inch transmission line to be jointly owned by the City of Clarence and the City of Shelbina, Missouri.

The City of Clarence proposes that deliveries of its gas requirements be made at the point of interconnection with Respondent's main transmission line and that said gas be transmitted through the jointly owned transmission line to a point of interconnection with the City of Clarence's 3-inch lateral for transmission to the City of Clarence.

The total estimated volumes of natural gas involved to meet the City of Clarence's annual and peak day requirements for the initial three year period of proposed operations are stated to be:

	First year	Second year	Third year
Annual (Mcf)	84,498	93,442	104,637
Peak day (Mcf)	791	887	997

The total estimated cost of the City of Clarence's proposed transmission and distribution facilities is $525,000, which cost will be financed through the issuance of Gas Revenue System Bonds.

On April 19, 1966, Respondent was duly advised of the applications filed in this proceeding, and due notice of the filing and opportunity for hearing thereon has been given by publication in the Federal Register on May 5, 1966 (31 F.R. 6758 in Docket No. CP66–330 and 31 F.R. 6759 in Docket No. CP66–329). No protest, petition to intervene or request for hearing has been filed in this proceeding.

The Commission finds:

(1) Panhandle Eastern Pipe Line Company, a Delaware corporation having its principal place of business in Kansas City, Missouri, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of October 17, 1945, in Docket No. G–254 (4 FPC 1081).

(2) The City of Shelbina and the City of Clarence are legally authorized to engage in the local distribution of natural gas to the public within the meaning of Section 7(a) of the Natural Gas Act.

(3) It is necessary and desirable in the public interest to direct Respondent to establish physical connection of its transmission facilities with the facilities proposed to be constructed and operated by the City of Shelbina and the City of Clarence and to sell and deliver to said Cities under a service agreement to be executed by said Cities with Respondent in accordance with the Commission's Regulations, up to 997 Mcf per day of natural gas for distribution and resale to the City of Clarence and 1971 Mcf per day for distribution and

resale to the City of Shelbina as hereinbefore described and as more fully described in the respective applications filed in these proceedings.

(4) The requirement that Respondent serve the Cities of Shelbina and Clarence, Missouri, as hereinafter ordered, will not impair Respondent's ability to render adequate service to its existing customers.

(5) The Cities of Shelbina and Clarence should be prepared to receive natural gas from Respondent for distribution in their respective cities within one year from the date of issuance of this order.

The Commission orders:

(A) Panhandle Eastern Pipe Line Company is directed to establish physical connection of its facilities with its facilities proposed to be constructed and operated by the Cities of Shelbina and Clarence as herein described, and to sell and deliver up to 997 Mcf of natural gas daily to the City of Clarence and 1971 Mcf daily to the City of Shelbina under service agreements to be executed by the respective cities with Respondent in accordance with the Commission's Regulations. Such service shall be rendered pursuant to Panhandle Eastern's currently filed appropriate rate schedule.

(B) Respondent shall report to the Commission in writing the date of commencement of service to the respective cities within 15 days after such service begins.

(C) Applicants shall be prepared to receive gas service from Respondent within one year from the date of this order.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

SHOPPING CENTERS ASSOCIATION OF NORTHERN OHIO v. CLEVELAND ELECTRIC ILLUMINATING COMPANY, DOCKET NO. E-7233

ORDER PERMITTING WITHDRAWAL OF COMPLAINT AND TERMINATING PROCEEDING

(Issued August 2, 1966)

On June 23, 1965, Shopping Centers Association of Northern Ohio, and its individual members (Shopping Centers) comprising 24 shopping centers served by the Cleveland Electric Illuminating Company filed a "Petition for An Order". Thereafter this matter was continued from time to time.

On July 18, 1966, Shopping Centers filed a notice of withdrawal of its "Petition for An Order" pursuant to Section 1.11(d) of the Commission's Rules of Practice and Procedure. On July 21, 1966, Intervenor, The Public Utilities Commission of Ohio, filed its "Consent to Withdrawal of Petition".

In support of its Notice of Withdrawal, Shopping Centers states that "since the Petition was filed, negotiations between the Association, its members, and Cleveland Electric Illuminating Company have resulted in agreements for the disposition of electrical facilities of the individual members with the result that the issues presented by the Petition will be moot." Earlier, by letter of July 12, 1966, counsel for the Cleveland Electric Illuminating Company advised the Commission that "* * * the parties have resolved the controversies between them, including settlement of money claims, damages, value of property subject to purchase, privileges of submetering, and general claims of liability, if any, and related matters."

The Commission finds:

Good cause has been shown to permit Shopping Centers to withdraw its "Petition for An Order."

The Commission orders:

Withdrawal of the "Petition for An Order" in the above-captioned matter hereby is permitted and Docket No. E-7233 is closed.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

TRANSCONTINENTAL GAS PIPE LINE CORPORATION, DOCKET NO. CP66-408

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 2, 1966)

On June 9, 1966, Transcontinental Gas Pipe Line Corporation (Applicant), filed in Docket No. CP66-408 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the rendition of additional natural gas service to South Jersey Gas Company (South Jersey), an existing customer, in the amount of 7,000 Mcf of gas per day under Applicant's Rate Schedule CD-3, all as more fully set forth in the application.

On January 20, 1966, Applicant requested authorization in Docket No. CP66-23 for the construction, installation and operation of additional facilities over a three-year period commencing with the 1966 construction season, and for the rendition of, *inter alia*, additional pipeline service during the 1966-67 winter heating season of 96,127 Mcf per day to 37 customers. On May 26, 1966, the Commission granted Applicant temporary authorization in Docket No. CP66-233 (and in Docket No. CP65-181) to construct and operate certain of the facilities proposed therein and to render non-competitive service to existing customers during the 1966-67 winter. South Jersey, one of Applicant's existing resale customers, is included in Docket No. CP66-233 (and in the aforementioned temporary authorization issued therein) for an additional volume of 4,000 Mcf per day of gas under Applicant's Rate Schedule CD-3.

South Jersey has now advised Applicant, however, that it has a need for an additional 7,000 Mcf per day of CD-3 gas, 3,000 Mcf of which, is imperatively required *commencing not later than July 1, 1966.* On June 29, 1966 the Commission granted Applicant temporary authorization in this proceeding. South Jersey states that gas is needed not only to meet substantially increased current demands on the South Jersey system but, more critically because of such increased demands, to permit South Jersey to make returns of gas to underground storage for use in the coming winter.

No additional facilities are required in order to render the service proposed herein.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on July 28, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits submitted in support of the authorization sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, Transcontinental Gas Pipe Line Corporation, a Delaware corporation having its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of May 29, 1948, in Docket No. G–704 (7 FPC 24).

(2) The proposed sale and delivery of natural gas by Applicant as hereinbefore described, and as more fully described in the application, in this proceeding, is subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed sale and delivery of natural gas is required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (b), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, Transcontinental Gas Pipe Line Corporation, authorizing the sale and delivery of natural gas as hereinbefore described and as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e) and (f) of Section 157.20 of such Regulations.

(C) The service authorized herein shall be commenced as provided by paragraph (b) of Section 157.20 of the aforesaid Regulations within 30 days of the date on which this order issues.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

WISCONSIN GAS COMPANY AND MICHIGAN WISCONSIN PIPE LINE COMPANY, DOCKET NO. CP66–388

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued August 2, 1966)

On May 26, 1966, Wisconsin Gas Company (Applicant) filed in Docket No. CP66–388 an application pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Michigan Wisconsin Pipe Line Company

(Respondent) to establish physical connection of its natural gas transmission facilities with the facilities proposed to be constructed by Applicant and to sell and deliver up to 321 Mcf of natural gas per day to Applicant for resale and distribution in the Villages of Auburndale and Milladore, all in the State of Wisconsin, as more fully set forth in the application.

Applicant proposes to construct and operate distribution facilities in the aforementioned communities. Applicant also proposes that Respondent construct two measuring stations, one each for Auburndale and Milladore, and 4-inch transmission lines, each extending 0.2 mile from Respondent's system to the said Villages, pursuant to Respondent's "ten-cent formula".

The total estimated volumes of natural gas necessary to meet Applicants' annual and peak day requirements for the initial three year period of proposed operations are stated to be:

	First year	Second year	Third year
Annual (Mcf)	17,180	36,020	51,283
Peak day (Mcf)	85	219	321

The total estimated cost of Applicant's proposed distribution facilities is $112,828, which cost will be defrayed from cash on hand and short-term commercial bank loans.

Applicant has obtained necessary franchises to supply natural gas in said communities and on August 23, 1965, the Wisconsin Public Service Commission granted Applicant a certificate to construct and operate the necessary facilities and to sell gas therein.

On June 17, 1966, Michigan Wisconsin filed an answer to the application and stated therein it had no objection to the entry of an order requiring it to extend its facilities, establish connection of its facilities and provide the requested service.

Due notice of the filing of the application and opportunity for hearing thereon has been given by publication in the Federal Register on June 10, 1966 (31 F.R. 8202). No protest, petition to intervene or request for hearing has been filed in this proceeding.

The Commission finds:

(1) Michigan Wisconsin Pipe Line Company, a Delaware corporation having its principal place of business in Detroit, Michigan, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order dated November 30, 1946, in Docket No. G-669.

(2) Applicant, Wisconsin Gas Company, a Wisconsin corporation having its principal place of business in Milwaukee, Wisconsin, is a corporation legally authorized to engage in the local distribution of natural gas to the public within the meaning of Section 7(a) of the Natural Gas Act.

(3) It is necessary and desirable in the public interest to direct Michigan Wisconsin to sell and deliver natural gas to Applicant, under a service agreement to be executed by Applicant with Michigan Wisconsin in accordance with the Commission's Regulations, up to 321 Mcf per day for the Villages of Auburndale and Milladore for distribution and resale as hereinbefore described.

(4) Applicant should be prepared to receive natural gas from Michigan Wisconsin for distribution in the named communities, and their environs, within one year from the date of the issuance of this order.

(5) The requirement that Respondent serve Applicant as hereinafter ordered will not impair Respondent's ability to render adequate service to its existing customers.

The Commission orders:

(A) Michigan Wisconsin Pipe Line Company is directed to establish physical connection of its facilities with the facilities proposed to be constructed and operated by Applicant, as herein described and to sell and deliver to Applicant up to 321 Mcf of natural gas per day for the Villages of Auburndale and Milladore under a service agreement to be executed by Applicant with Michigan Wisconsin in accordance with the Commission's Regulations, for distribution and resale as hereinbefore described. Such service shall be rendered pursuant to Michigan Wisconsin's presently filed appropriate rate schedule.

(B) Michigan Wisconsin shall report to the Commission the date of commencement of service to Applicant within 10 days after such service begins.

(C) Applicant shall be prepared to receive service as directed herein one year from the issuance of this order.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

BLUEBONNET GAS CORPORATION, DOCKET NO. CP66-157

FINDINGS AND ORDER AMENDING ORDER TO EXTEND TIME

(Issued August 3, 1966)

On July 8, 1966, Bluebonnet Gas Corporation (Bluebonnet) filed in Docket No. CP66-157 a motion to extend to January 1, 1967, the time within which to construct and place in operation the facilities authorized by the Commission's order issued January 4, 1966, 35 FPC 22, in the subject docket, all as more fully set forth in the motion in this proceeding.

The order of January 4, 1966, authorized Bluebonnet, among other things, to construct and operate certain facilities necessary to take gas purchased from Vernon J. Main, Jr. (Main) in Bayou White Field, Pointe Coupee Parish, Louisiana. Said order also provided that authorized facilities should be constructed and placed in operation by April 4, 1966. Subsequently, the time was extended an additional three months.

Bluebonnet states that Main has not as yet built the requisite gathering facilities for the delivery of gas. Main has had difficulty with his well and other producers in the area have not yet found sufficient production which, together with Main's gas, would warrant construction of the necessary gathering facilities. Bluebonnet states that it is hopeful that by January 1, 1967, a sufficiently large quantity of gas will be available, and, accordingly, requests an extension of time to that date.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's order issued January 4, 1966, in Docket No. CP66-157 be amended as hereinafter ordered.

The Commission orders:

(A) The Commission's order issued January 4, 1966, in Docket No. CP66-157 is amended to extend to January 1, 1967, the time within which the authorized facilities shall be constructed and placed in actual operation, all as hereinbefore described and as set forth in the subject motion.

(B) In all other respects said order shall remain in full force and effect.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

COLORADO INTERSTATE GAS COMPANY, DOCKET NO. CP66-296 AND MOUNTAIN FUEL SUPPLY COMPANY, DOCKET NO. CP66-348

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY, AND ACCEPTING RATE SCHEDULE FOR FILING

(Issued August 3, 1966)

On March 21, 1966, Colorado Interstate Gas Company (Colorado Interstate) filed in Docket No. CP66-296 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities for the transportation and sale of natural gas on a short-term basis to Mountain Fuel Supply Company (Mountain Fuel), all as more fully set forth in the application.

Colorado Interstate proposes to construct approximately 3,100 feet of 6-inch pipeline extending from a point on its Wyoming 22-inch pipeline in the West Half of Section 35, Township 18 North, Range 107 West, Sweetwater County, Wyoming, to the proposed point of delivery in the Northwest Quarter of Section 26, Township 18 North, Range 107 West, Sweetwater County, Wyoming, together with a meter station to be located at the point of delivery. By use of said facilities, Colorado Interstate proposes to sell and deliver to Mountain Fuel, on an interrupted basis, such daily volumes of gas as Mountain Fuel may require for a term of three years from the date of first delivery. Mountain Fuel has agreed to purchase, take or pay for a minimum volume of 1,000,000 Mcf of gas per year at a rate of not more than 10,000 Mcf per day and to pay a rate of 18 cents per Mcf of gas for all volumes delivered by Applicant.

Colorado Interstate has concurrently filed herewith, as initial Rate Schedule X-28 of its Second Revised Volume No. 2, the agreement with Mountain Fuel for the sale of gas proposed herein and requests the tariff filing be made effective concurrently with issuance of certificate authority for the proposed facilities and sale.

The total estimated cost of Colorado Interstate's proposed construction is $38,746, which cost will be financed from current working funds.

On May 2, 1966, Mountain Fuel Supply Company (Mountain Fuel) filed in Docket No. CP66-348 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of the metering facilities necessary to receive gas on a short term basis from Colorado Interstate Gas Company (Colorado) at Mountain Fuel's gas regulating station at Green River, Wyoming, all as more fully set forth in the application.

Mountain Fuel states that the facilities proposed to be constructed and operated, consisting of a regulator, valves, pipe, fittings and an orifice meter, are only a minor addition to its existing facilities. The additional short term gas supply will give it greater operating flexibility, increase its reserve life index, and provide added reliability to its service in the event of interruption of its other sources of supply.

Pursuant to a letter agreement between Mountain Fuel and Colorado Interstate, Mountain Fuel will purchase, take or pay for a minimum of 1,000,000 Mcf of gas per year from Colorado Interstate's gas supply which is temporarily in excess of its system requirements. The aforementioned facilities are necessary to implement said agreement.

Mountain Fuel will transport the short term gas supply through its presently certificated transmission facilities to its existing market area, and does not contemplate service to any new market area.

The total estimated cost of Mountain Fuel's proposed facilities is $6,100, which will be financed from funds on hand.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on July 28, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and exhibits, submitted in support of the authorizations, and upon consideration of the record,

The Commission finds:

(1) Colorado Interstate Gas Company, a Delaware corporation having its principal place of business in Colorado Springs, Colorado, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order issued June 5, 1945, in Docket No. G–294 (4 FPC 936).

(2) Mountain Fuel Supply Company, a Utah corporation having its principal place of business in Salt Lake City, Utah, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of October 15, 1940, in Docket No. G–154 (2 FPC 288).

(3) The proposed construction and operation of facilities, transportation, and sale of natural gas, as hereinbefore described and as more fully described in the applications and exhibits in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(4) The aforesaid proposed construction and operation of facilities, the transportation, and sale of natural gas are required by the public convenience and necessity and certificates therefor should be issued as hereinafter ordered and conditioned.

(5) Colorado Interstate and Mountain Fuel are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(6) Public convenience and necessity require that the certificates issued hereinafter and the rights granted thereunder be conditioned upon Colorado Interstate's and Mountain Fuel's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4) and (e) of Section 157.20 of such Regulations applicable to each and paragraph (f) applicable only to Colorado Interstate.

The Commission orders:

(A) Certificates of public convenience and necessity are issued to Colorado Interstate and Mountain Fuel authorizing the construction and operation of facilities, and the transportation, and sale of natural gas as more fully described in the applications in this proceeding, subject to the jurisdiction of the Commission, upon the terms and conditions of this order.

(B) The certificates issued by paragraph (A) above and the rights granted thereunder are conditioned upon Colorado Interstate's and Mountain Fuel's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4) and (e) of Section 157.20 of such Regulations applicable to each and paragraph (f) only to Colorado Interstate.

(C) The facilities authorized shall be completed and placed in actual operation and the transportation and sale of natural gas authorized in paragraph (A) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within 6 months from the date on which this order issues.

(D) Colorado Interstate's proposed Rate Schedule X-28 of its Second Revised Volume No. 2 is accepted for filing effective on the date of issuance of this order.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

EL PASO NATURAL GAS COMPANY, DOCKET NO. CP61-92

ORDER FURTHER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND ACCEPTING FOR FILING REVISED TARIFF SHEETS

(Issued August 3, 1966)

On May 24, 1966, El Paso Natural Gas Company (Applicant) filed in Docket No. CP61-92 an application to amend the order of the Commission issued in said docket on January 11, 1965, 33 FPC 34, which order authorized Applicant to construct and operate certain facilities and to deliver natural gas to Northern Natural Gas Company (Northern), on an exchange basis, at points in Ochiltree County, Texas, as a part of the previously authorized exchange under Applicant's Rate Schedule Z-1, FPC Gas Tariff, Third Revised Volume No. 2. By the instant filing, Applicant requests the further amendment of the certificate to authorize the construction and operation of approximately 0.25 mile of 4½-inch O.D. pipeline and a measuring and regulating station which are necessary to connect a recently developed well (Key-Richardson 2-71 Well) in Ochiltree County, Texas, all as more fully set forth in the application to amend.

Applicant states that it now has additional quantities of gas available for delivery to Northern which are to be produced from the well denominated as Key-Richardson 2-71. Northern and Applicant have agreed, by letter agreement dated March 30, 1966, to supplement Exhibit B to Applicant's Rate Schedule Z-1, FPC Gas Tariff, Third Revised Volume No. 2, by addition of the aforementioned well. This agreement provides for delivery by Applicant to Northern, on an exchange basis under Rate Schedule Z-1, of natural gas attributable to Applicant's interest in such well.

El Paso has tendered revised tariff sheets to its FPC Gas Tariff, Third Revised Volume No. 2 (Third Revised Sheet Nos. 22-F and 22-G) which incorporate into its Z-1 Rate Schedule a new Exhibit B to reflect the proposed deliveries from this new gas well. El Paso requests these tariff sheets be made effective on a date coincident with the issuance of the authorization requested herein. The total cost of the proposed facilities is estimated at $6,750 and will be financed from working funds.

Due notice of the filing of the application to amend and opportunity for hearing thereon has been given by publication in the Federal Register on June 7, 1966 (31 F.R. 8032). No petition to intervene, notice of intervention, or protest to the granting of the application has been filed.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's order issued January 11, 1965, in Docket No. CP61–92 be further amended as hereinafter ordered, and El Paso's revised tariff sheets to its FPC Gas Tariff, Third Revised Volume No. 2 (Third Revised Sheet Nos. 22–F and 22–G) which incorporate into its Z–1 Rate Schedule a new Exhibit B to reflect the proposed deliveries for the new gas well be accepted for filing effective on the date of issuance of this order.

The Commission orders:

(A) The Commission's order issued January 11, 1965, in Docket No. CP61–92 is further amended so as to authorize the construction and operation of approximately 0.25 mile of 4½-inch O.D. pipeline extending from the Key-Richardson 2–71 Well located in the NE/4 of Section 71, Block 13, T&NO Rd. Survey, Ochiltree County, Texas, to a point of connection with Applicant's existing facilities interconnecting with Northern Natural Gas Company's system in the SE/4 of Section 57, Block 13, of Ochiltree County, Texas.

(B) In all other respects said order shall remain in full force and effect.

(C) El Paso's revised tariff sheets to its FPC Gas Tariff, Third Revised Volume No. 2 (Third Revised Sheet Nos. 22–F and 22–G) be accepted for filing effective on the date of issuance of this order.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

KANSAS-NEBRASKA NATURAL GAS COMPANY, INC.,
DOCKET NO. CP66–351

FINDINGS AND ORDER AFTER STATUTORY HEARING PERMITTING AND APPROVING ABANDONMENT AND ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 3, 1966)

On May 2, 1966, Kansas-Nebraska Natural Gas Company, Inc. (Applicant), filed in Docket No. CP66–351 an application pursuant to Sections 7(b) and 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing (1) the construction of approximately 11.0 miles of 6-inch pipeline between Newman Grove and Norfolk, Nebraska, to parallel an existing 6-inch pipeline, and (2) for permission and approval for the removal of approximately 25.5 miles of 6-inch and 8-inch pipeline between Mitchell and Northport, Nebraska, all as more fully set forth in the application.

Applicant acquired the line proposed to be abandoned in (2) above on its merger with North Central Gas Company (merger approved in Docket No. CP63–89, on December 20, 1962, 28 FPC 1079). North Central had previously used such line as a transmission line and had utilized a parallel 12″ and 16″ line as storage. After takeover, Applicant began using both lines to transport increased volumes from sources in eastern Wyoming to its Nebraska market area. Due to the construction characteristics of the smaller line and its deteriorated condition, operating pressure was reduced to 100 psia and the line was subsequently used to serve rural customers in the area of the line. No rural customers are served off of the 25.5 mile portion proposed to be reclaimed.

The line described in (1) will loop approximately 11.0 miles of 6-inch, old, reconditioned pipeline, that was installed in 1951 between Newman Grove and Norfolk, Nebraska. In view of the age of this pipeline it is necessary to operate the section at a lower pressure than it has been operated in the past. The most economical means of replacing the capacity that will be lost by lower operating pressure is to parallel this 11.0 miles of 6-inch pipeline with a new 6-inch pipeline.

The total estimated cost of Applicant's proposed construction is $115,000, which will be financed from current working capital.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application, has been filed.

At a hearing held on July 28, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Kansas-Nebraska Natural Gas Company, Inc., a Kansas corporation having its principal place of business in Phillipsburg, Kansas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of April 6, 1943, in Docket No. G-259 (3 FPC 966).

(2) The facilities proposed to be abandoned by Applicant as hereinbefore described and as more fully described in the application are used in the transportation and sale of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and such abandonment is subject to the requirements of Subsection (b) of Section 7 of the Natural Gas Act.

(3) The proposed abandonment of the aforesaid facilities by Applicant is permitted by the public convenience and necessity and permission and approval thereof should be granted as hereinafter ordered.

(4) The proposed construction and operation of facilities by Applicant as hereinbefore described and as more fully described in the application are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(5) The aforesaid proposed construction and operation of facilities, are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(6) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(7) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) Permission for and approval of the abandonment by Applicant of the facilities hereinbefore described, as more fully described in the application are granted.

(B) A certificate of public convenience and necessity is issued to Kansas-Nebraska Natural Gas Company, Inc., authorizing the construction and operation of facilities as hereinbefore described, all as more fully described in the application.

(C) The certificate issued by paragraph (B) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(D) Applicant shall advise the Commission of the date of abandonment of the facilities as authorized in paragraph (A) above within ten days of such abandonment.

(E) The facilities authorized shall be completed and placed in actual operation, as provided in paragraph (b) of Section 157.20 of the aforesaid Regulations within 12 months of the date on which this order issues.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

PANHANDLE EASTERN PIPE LINE COMPANY, DOCKET NO. CP66-358

FINDINGS AND ORDER AFTER STATUTORY HEARING PERMITTING AND APPROVING ABANDONMENT

(Issued August 3, 1966)

On May 9, 1966, Panhandle Eastern Pipe Line Company (Applicant), filed in Docket No. CP66-358 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon and sell to the Louisburg Gas Company three short segments of terminal lateral pipelines of Applicant's Louisburg lateral system, all as more fully set forth in the application.

Applicant seeks authority to abandon and sell the following lateral pipeline facilities to the Louisburg Gas Company:

(1) that portion of the lateral pipeline facility located to the south and on the downstream side of the existing Louisburg town border station, consisting of approximately 3,146 feet of 4-inch pipeline, together with drips, anodes, valves and miscellaneous fittings appurtenant thereto;

(2) that portion of the lateral pipeline facility located to the west of the existing Louisburg town border station, consisting of approximately 562 feet of 6-inch pipeline, together with drips, anodes, valves and miscellaneous fittings appurtenant thereto, and together with the five existing farm taps;

(3) that portion of the lateral pipeline facility located to the north and on the downstream side of the existing pressure regulator located just east of the existing Louisburg town border station, consisting of approximately 2,085 feet of 2-inch pipeline, together with drips, anodes, valves and miscellaneous fittings appurtenant thereto, and together with the three farm taps which serve four customers.

Applicant states that the sale of the above described facilities will result in a more economical operation for each company and that the expense of the physical changeover of the facilities, if any, will be negligible. Applicant further states that the granting of the requested authorization will involve no changes in gas deliveries or rates. Farm tap customers will be served by Louisburg Gas Company.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on July 28, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought, and upon consideration of the record,

The Commission finds:

(1) Panhandle Eastern Pipe Line Company (Applicant), a Delaware corporation having its principal place of business in Kansas City, Missouri, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of October 17, 1945, in Docket No. G-254 (4 FPC 1081).

(2) The facilities proposed to be abandoned by sale as hereinbefore described and as more fully described in the application herein, are used in the transportation and sale of natural gas in interstate commerce subject to the jurisdiction of the Commission, and such abandonment is subject to the requirements of Subsection (b) of Section 7 of the Natural Gas Act.

(3) The proposed abandonment of the aforesaid facilities is permitted by the public convenience and necessity and approval thereof should be granted as hereinafter ordered.

The Commission orders:

(A) Permission for and approval of the abandonment of the facilities hereinbefore described by sale to Louisburg Gas Company, as more fully described in the application in this proceeding, is granted to Applicant.

(B) Upon completion of the abandonment and sale Applicant shall within 10 days advise the Commission of the date of abandonment of the facilities as authorized in paragraph (A) above, filing with the Commission in writing and under oath, an original and four conformed copies of the notice of abandonment and sale showing the date thereof.

(C) The abandonment and sale of the facilities shall be completed within one year of the date of issuance of this order.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

SOUTH TEXAS NATURAL GAS GATHERING COMPANY, DOCKET NO. CP62-124

ORDER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 3, 1966)

On March 22, 1966, South Texas Natural Gas Gathering Company (Petitioner) filed in Docket No. CP62-124 a petition, as supplemented on May 9, 1966, to amend the order issued in said docket on February 7, 1962, 27 FPC 327, by authorizing the construction and operation of facilities in lieu of those authorized in said order, all as more fully set forth in the petition.

In the order of February 7, 1962, Petitioner was authorized to construct and operate certain natural gas facilities for the transportation and sale of natural gas to Transcontinental Gas Pipe Line Corporation (Transco). Among the authorized facilities was a 1,280-horsepower compressor station at Station S-11 on Petitioner's system. Changed operating conditions subsequent to the issuance of the order of February 7, 1962, and before the construction of the compressor facilities at Station S-11 made the construction of the authorized facilities at that point unnecessary. A change in the pattern of purchases on Petitioner's system and the decision of a producer from whom Petitioner purchases gas to compress its gas prior to delivery to Petitioner require Petitioner to construct and operate compression facilities at a point approximately 16 miles downstream from Station S-11. Petitioner proposes to install a 2,000-horsepower compressor station at Station S-8 on its system.

The cost of the proposed facilities is $250,000 to be financed from funds on hand.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the petition has been received.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the order issued February 7, 1962, in Docket No. CP62-124 should be amended as hereinafter ordered.

The Commission orders:

The order issuing a certificate of public convenience and necessity to Petitioner on February 7, 1962, in Docket No. CP62-124, 27 FPC 327, is amended by authorizing the construction and operation of a 2,000-horsepower compressor station at Station S-8 in lieu of the authorized facilities at Station S-11; and in all other respects said order shall remain in full force and effect.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

SOUTHERN NATURAL GAS COMPANY, DOCKET NO. CP66-38

ORDER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 3, 1966)

On July 18, 1966, Southern Natural Gas Company (Petitioner) filed in Docket No. CP66-38 a petition to amend the order issued November 3, 1965, 34 FPC 1236, issuing a certificate of public convenience and necessity to Petitioner in said docket by extending the time for the completion of construction of the authorized facilities. Said order required that the subject facilities should be completed and placed in actual operation within four months from the date thereof; and on February 8, 1966, the time was extended by the Secretary of the Commission until September 2, 1966. Petitioner states that it has encountered unexpected difficulties in obtaining necessary rights-of-way for the subject facilities and that it will be unable to complete construction by September 2, 1966. Petitioner requests that the time be extended to January 1, 1967.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the order issued November 3, 1965, in Docket No. CP66-38 should be amended as hereinafter ordered.

The Commission orders:

The order issuing a certificate of public convenience and necessity on November 3, 1965, in Docket No. CP66-38 is amended by extending the time for completion of facilities authorized therein to and including January 1, 1967; and in all other respects said order shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

TRANSCONTINENTAL GAS PIPE LINE CORPORATION, DOCKET NO. CP66-327

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 3, 1966)

On April 15, 1966, Transcontinental Gas Pipe Line Corporation (Applicant) filed in Docket No. CP66-327, as supplemented on May 27, 1966, an application pursuant to Section 7(c) of the Natural Gas Act, as implemented by Section 157.7(b) of the Regulations under the Act, for a certificate of public convenience and necessity authorizing the construction during the twelve-months period commencing from the date on which this order issues and the operation of minor lateral and field facilities to enable Applicant to take into its certificated pipeline system natural gas which will be purchased from producers thereof, all as more fully set forth in the application in this proceeding.

The purpose of this "budget-type" application is to enable Applicant to establish additional connections in fields from which Applicant is already authorized to receive gas where it is not possible to construct facilities under the exemption provided by Section 2.55(d) of the Commission's Rules, to provide necessary booster compressor facilities in such fields and to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system new supplies of natural gas in various producing areas generally coextensive with said system.

The total cost of the proposed facilities will not exceed a maximum of $2,000,000, and no single project will exceed a cost of $500,000, which costs will be financed by cash on hand or, alternatively, by short-term bank loans.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on July 28, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, supplement and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Transcontinental Gas Pipe Line Corporation, a Delaware corporation having its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of November 18, 1948, in Docket No. G-1143 (7 FPC 145).

(2) The facilities hereinbefore described, as more fully described in the application, as supplemented, in this proceeding, are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Applicant should submit within 60 days after the expiration of the authorization granted hereinafter, a statement in compliance with Section 157.7(b)(3) of the Commission's Regulations under the Natural Gas Act.

(6) Public convenience and necessity require that the certificate hereinafter issued and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e) and (f) of Section 157.20 of said Regulations.

(7) The authorization hereinafter granted should be limited to construction during the twelve-months period commencing from the date on which this order issues and the total expenditures for facilities to be constructed thereunder should be limited to a maximum of $2,000,000, with no single project to exceed a cost of $500,000.

The Commission orders:

(A) Upon the terms and conditions of this order, a certificate of public convenience and necessity is issued authorizing Applicant, Transcontinental Gas Pipe Line Corporation, to construct during the twelve-months period commencing from the date on which this order issues the proposed facilities hereinbefore described, as more fully described in the application, as supplemented, in this proceeding, and to operate such facilities only to take natural gas supplies from producers who have received authorization from the Commission to sell natural gas to said Applicant.

(B) Applicant shall submit within 60 days after the expiration of the authorization granted by paragraph (A) above a statement in compliance with Section 157.7(b)(3) of the Commission's Regulations under the Natural Gas Act.

(C) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e) and (f) of Section 157.20 of said Regulations.

(D) The authorization granted in paragraph (A) above is limited to construction during the twelve-months period commencing from the date on which this order issues and the total expenditures for facilities to be constructed thereunder are limited to a maximum of $2,000,000, with no single project to exceed a cost of $500,000.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

EL PASO NATURAL GAS COMPANY, DOCKET NO. CP66-362

FINDINGS AND ORDER AFTER STATUTORY HEARING PERMITTING AND APPROVING ABANDONMENT AND ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 4, 1966)

On May 12, 1966, El Paso Natural Gas Company (Applicant), filed in Docket No. CP66-362 an application pursuant to Sections 7(b) and 7(c) of the Natural

Gas Act for permission and approval to abandon certain natural gas facilities and for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities in replacement of those proposed to be abandoned, all as more fully set forth in the application.

Applicant, in the interest of public safety, proposes to modify the design and configuration of a certain segment of its San Juan Mainline System situated in the vicinity of the City of Flagstaff, Arizona. The area traversed by Applicant's system has undergone a substantial change in character as a result of the growth and development of the said city since the time the aforesaid facilities were originally installed, thereby increasing the potential hazards associated with the operation of such high pressure pipelines.

Applicant proposes:

1. The removal and salvage of approximately 7.8 miles of 24-inch and 30-inch O.D. pipeline extending from the Flagstaff Compressor Station on the San Juan mainline; and approximately 3.3 miles of 34-inch O.D. pipeline consisting of three segments of 1.2 miles, 1.4 miles and 0.7 mile respectively, looping the aforesaid 24-inch O.D. pipeline.

2. To construct and operate 7.8 miles of 34-inch pipeline, and necessary appurtenances, traversing the same location. The 3.3 miles of 34-inch O.D. heavier wall pipeline are to replace the existing 34-inch line.

Applicant states that no reduction or abandonment of service will result from the project.

The total estimated cost of Applicant's proposed construction is $2,405,653, which cost will be financed out of current working funds.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application, has been filed.

At a hearing held on July 28, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, El Paso Natural Gas Company, a Delaware corporation having its principal place of business in El Paso, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of October 29, 1942, in Docket No. G-242 (3 FPC 85).

(2) The facilities proposed to be abandoned by Applicant as hereinbefore described and as more fully described in the application are used in the transportation and sale of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and such abandonment is subject to the requirements of Subsection (b) of Section 7 of the Natural Gas Act.

(3) The proposed abandonment of the aforesaid facilities by Applicant is permitted by the public convenience and necessity and permission and approval thereof should be granted as hereinafter ordered.

(4) The proposed construction and operation of facilities by Applicant as hereinbefore described and as more fully described in the application are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(5) The aforesaid proposed construction and operation of facilities, are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(6) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(7) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) Permission for and approval of the abandonment by Applicant of the facilities hereinbefore described, as more fully described in the application are granted.

(B) A certificate of public convenience and necessity is issued to El Paso Natural Gas Company, authorizing the construction and operation of facilities as hereinbefore described, all as more fully described in the application.

(C) The certificate issued by paragraph (B) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(D) Applicant shall advise the Commission of the date of abandonment of the facilities as authorized in paragraph (A) above within ten days of such abandonment.

(E) The facilities authorized shall be completed and placed in actual operation, as provided in paragraph (b) of Section 157.20 of the aforesaid Regulations within 12 months of the date on which this order issues.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

PACIFIC GAS TRANSMISSION COMPANY, DOCKET NOS. CP65-213, CP65-214 AND CP65-215

ORDER DENYING APPLICATIONS FOR REHEARING

(Issued August 4, 1966)

On June 15, 1966, the Commission issued Opinion No. 495 in this proceeding, 35 FPC 1003. A certificate of public convenience and necessity was thereby issued to Pacific Gas Transmission Company (PGT) authorizing it to import from Canada an additional 100,000 Mcf of natural gas commencing on or about November 1, 1966, and an additional 100,000 Mcf of natural gas commencing on or about November 1, 1967 for transportation and sale to the Pacific Gas and Electric Company (PG&E) in California. Applications for rehearing of Opinion No. 495 and its accompanying order were filed July 8, 1966 by the State of Texas (Texas), July 11, 1966 by Texas Independent Producers and Royalty Owners Association, West Central Texas Oil and Gas Association, and Permian Basin Petroleum Association (collectively called TIPRO, *et al.*), and July 12, 1966, by California Gas Producers Association, Oil Producing Agency of California, and Jade Oil and Gas Company (collectively called California Producers). The applicants reiterate the positions taken by them before the Commission decision embodied in Opinion No. 495.

Texas urges that the record establishes the inadequacy of the Canadian gas supplies, including possible limitation on exports by the Canadian government. Texas further argues that the Commission erred because a portion of the

Canadian gas is sold under contracts containing price escalation clauses, and in failing to subpoena testimony to establish that gas could be furnished from West Texas more cheaply than the Canadian gas.

TIPRO, *et al.*, also argue the Commission erred in failing to subpoena the testimony referred to and in allowing price escalation provisions in Canadian contracts. TIPRO, *et al.* contend the record shows that cheaper and more dependable gas will be available to Northern California and that the Commission erred in finding a market exists for the sales to PG&E. TIPRO, *et al.*, further argue that there is no present need to utilize the present PGT pipeline facilities to full capacity, and that, in any event, certain conditions proposed by the Commission staff to limit price escalation should have been adopted.

California Producers urge the Commission erred in failing to consider (1) PG&E's estimated cut-backs of California-produced gas to provide a market for the Canadian gas, (2) the impact of certification of the then-pending Gulf Pacific project on PG&E's available supplies, (3) the impact upon the Mandatory Oil Import Program, and (4) the availability of alternative supplies from other pipelines.

All these matters were fully argued by the applicants and considered by the Commission prior to its determination in Opinion No. 495, and no useful purpose would be served by further discussion of them.

The Commission finds:

The assignments of error and grounds for rehearing present no facts or legal principles which would warrant any change or modification in the Commission's Opinion No. 495 and accompanying order.

The Commission orders:

The above-described applications for rehearing of Opinion No. 495 and its accompanying order are denied.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

COLORADO INTERSTATE GAS COMPANY, DOCKET NO. CP65-144

ORDER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 5, 1966)

On April 18, 1966, Colorado Interstate Gas Company (Petitioner), filed in Docket No. CP65-144 a petition to amend the certificate of public convenience and necessity issued in said docket on March 10, 1965, 33 FPC 519, requesting that the authority granted by said certificate for the construction and operation of a meter station on Petitioner's Fourway-to-Kit Carson 20-inch main line for delivery of natural gas to El Paso Natural Gas Company (El Paso) be rescinded, all as more fully set forth in the petition to amend.

Petitioner states that it was granted authority in the instant docket to make deliveries of natural gas to El Paso at two delivery points on Petitioner's Fourway-to-Kit Carson 20-inch main line in Moore County, Texas, and that one of these delivery points is an existing interconnection between Petitioner and Northern Natural Gas Company (Northern). Petitioner is delivering gas to Northern for El Paso's account at this delivery point. Petitioner further states that the other authorized delivery point is a proposed interconnection between

Petitioner's Fourway line and El Paso's 18-inch Panoma line and that this interconnection has not been constructed.

The petition to amend states that the authorized proposed interconnection between Petitioner's and El Paso's pipelines has not been required to meet the delivery requirements for the sale of gas to El Paso and thus the proposed interconnection has not been constructed. Petitioner states that it has delivered gas to El Paso through the existing interconnection with Northern for approximately one year and actual operations have proven that the proposed second delivery point is not required. Accordingly, Petitioner requests that the authority granted in the instant docket for the construction and operation of a meter station at the proposed interconnection between Petitioner's Fourway Line and El Paso's Panoma line be rescinded.

Due notice of the filing of the petition to amend and opportunity for hearing thereon has been given by publication in the Federal Register on May 5, 1966 (31 F.R. 6759). No protest, petition to intervene or notice of intervention has been filed herein.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's order issued March 10, 1965, in Docket No. CP65–144 be amended as hereinafter ordered.

The Commission orders:

(A) The Commission's order issued March 10, 1965, in Docket No. CP65–144 is amended so as to delete therefrom and rescind the authorization to construct and operate a delivery point and proposed interconnection between Petitioner's Fourway line and El Paso's 18-inch Panoma line in Moore County, Texas.

(B) Petitioner shall file with the Commission within 30 days after the issuance of this order a superseding original Sheet 101 to its Rate Schedule X–22, reflecting the requested deletion of the delivery point.

(C) In all other respects said order shall remain in full force and effect.

(D) The amendment authorized by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with applicable Commission Regulations under the Natural Gas Act and particularly the conditions set forth in Section 157.20 of such Regulations.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

GREAT LAKES GAS TRANSMISSION COMPANY, DOCKET NOS. CP66–110, CP66–111 AND CP66–112; MICHIGAN WISCONSIN PIPE LINE COMPANY, CP66–109; MIDWESTERN GAS TRANSMISSION COMPANY, CP66–119, CP66–120 AND CP66–121; NORTHERN NATURAL GAS COMPANY, CP66–212; NORTHERN NATURAL GAS TRANSPORTATION COMPANY, CP66–213, CP66–214 AND CP66–215

ORDER DENYING MOTION TO OMIT INTERMEDIATE DECISION PROCEDURE

(Issued August 5, 1966)

On June 28, 1966, Great Lakes Gas Transmission Company, *et al.* (Great Lakes) filed a motion pursuant to Section 1.30 of the Commission's Rules of

Practice and Procedure for omission of the intermediate decision of the Examiner in the above-captioned proceeding.

Great Lakes states that the purpose of omitting the Examiner's decision is to expedite the proceeding so that construction of facilities can be commenced immediately for scheduled completion by fall to avoid a "severe shortage of gas" which confronts the consumers of eastern Canada during the coming winter heating season. Great Lakes estimates that the eastern Canada market will require a "minimum of 23 billion cubic feet" commencing November 1, 1966.

Statements and responses in support of applicant's motion to omit were filed by the Michigan Public Service Commission, Michigan Wisconsin Pipe Line Company, *et al.*, Union Gas Company of Canada, Midwestern Gas Transmission Company, County of Wayne, Michigan, Consumers' Gas Company and St. Lawrence Gas Company, Inc., Public Service Commission of Wisconsin, Wisconsin Gas Company, Northern and Central Gas Company Limited, Wisconsin Natural Gas Company, Wisconsin Michigan Power Company, and Wisconsin Fuel & Light Company. Northern Natural Gas Company and Northern Natural Gas Transportation Company joined in the motion to omit, but argued that neither Great Lakes nor the eastern Canadian distributors had demonstrated that, "eastern Canadian requirements for the 1966–1967 heating season are of an emergency character."

A response was filed in opposition to Great Lakes' motion by Panhandle Eastern Pipe Line Company and Trunkline Gas Company alleging that due to the complex nature of the proceedings and the highly complicated and contested issues being considered, the Commission should be afforded the benefit of the Examiner's decision.

Staff counsel has neither joined nor concurred in the request for waiver of the intermediate decision, nor objected thereto.

The present case presents many complex considerations as to market, costs, supply, etc. of the type which necessarily must be ruled upon in a competitive hearing. Consequently, the Commission considers that a decision by the examiner who has heard the evidence relating to these matters will be of considerable value to it in reaching a proper solution to the questions and arguments presented during the hearings. Accordingly, the motion to omit will be denied.

Without now passing upon the extent of any emergency which might justify a temporary authorization of all or part of the construction proposed by any of the parties hereto (or any other means for meeting such an emergency)—and the present pleadings indicate that the showing of both need and method of temporarily meeting it should be elaborated on in greater detail—it is clear that an appropriate temporary authorization is the only procedure which could promise any sure relief. For even assuming we waive the examiner's decision it is not at all clear that a final decision could be reached by the end of the year.

The Commission finds:

It does not appear to be in the public interest to grant Great Lakes' motion for omission of the Examiner's decision. The due and timely exercise of the Commission's function does not imperatively require the omission.

The Commission orders:

The motion by Great Lakes, *et al.*, for omission of intermediate decision herein is denied.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

NORTHERN NATURAL GAS COMPANY, DOCKET NO. CP64–255 (PHASE II)

ORDER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 5, 1966)

On May 6, 1966, Northern Natural Gas Company (Petitioner) filed in Docket No. CP64–255 (Phase II) a petition to amend the order issued June 2, 1965, accompanying Opinion No. 463, 33 FPC 1163, issuing a certificate of public convenience and necessity to Applicant by authorizing the construction and operation of facilities in lieu of the facilities therein authorized and by deleting a condition precedent, all as more fully set forth in the petition.

The order of June 2, 1965, authorizes, *inter alia*, the construction and operation of 0.5 mile of 4-inch lateral pipeline from a point on Applicant's 8-inch pipeline to the Marquette, Michigan, Town Border Station No. 2 for service to Michigan Gas and Electric Company (MG&E). As a result of a reappraisal of the requirements and distribution pattern of MG&E, Applicant and MG&E have agreed upon a new and more suitable site for the location of the town border station; and accordingly, Applicant proposes to construct and operate 2.2 miles of 6-inch lateral pipeline at a cost of $44,420. The cost of the proposed facilities exceeds the cost of the authorized facilities by $36,520.

The order of June 2, 1965, also authorizes Applicant to construct and operate a branch line for the sale and delivery of gas to Lake Superior District Power Company (Lake Superior). A portion of the gas would be resold by Lake Superior to the municipal power plant in Bessemer, Michigan. As a condition precedent to the effectiveness of such authorization Applicant is required to submit to the Commission the contract for the sale by Lake Superior as evidence of the fact that there is a market for the gas which will produce sufficient revenue to justify Applicant's investment in the branch line. In the instant petition Applicant shows that the third year incremental revenue from the operation of the branch line without the sale of gas for the power plant considerably exceeds the incremental cost of service and that, therefore, there is no question of the line's economic feasibility. Applicant requests that the condition be deleted from the order.

After due notice no petition to intervene, notice of intervention or protest to the granting of the petition has been received.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the order accompanying Opinion No. 463, 33 FPC 1163, issued June 2, 1965, should be amended as hereinafter ordered.

The Commission orders:

The order accompanying Opinion No. 463, 33 FPC 1163, issued June 2, 1965, is amended by authorizing the construction and operation of 2.2 miles of 6-inch pipeline in lieu of that originally authorized for service to MG&E at the Marquette, Michigan, Town Border Station No. 2 and by deleting from paragraph (B)(ii) the requirement that Applicant submit a contract of Lake Superior for the sale of gas for use in the municipal power plant in Bessemer, Michigan, as a condition precedent to the effectiveness of the certificate with respect to authorization to construct the particular branch line; and in all other respects said order shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

CENTRAL ILLINOIS PUBLIC SERVICE COMPANY AND NATURAL GAS PIPELINE COMPANY OF AMERICA, DOCKET NO. CP66-366

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued August 8, 1966)

On May 16, 1966, Central Illinois Public Service Company (Applicant), filed in Docket No. CP66-366 an application pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Natural Gas Pipeline Company of America (Respondent) to establish physical connection of its transportation facilities with the facilities proposed to be constructed by Applicant and to sell and deliver to Applicant volumes of natural gas for resale and distribution in the Village of Vergennes, Jackson County, Illinois, and environs, all as more fully set forth in the application.

Applicant proposes to construct, own, operate, and maintain approximately 2.4 miles of 2-inch gas transmission line extending from a proposed connection with Respondent.

Applicant also proposes to construct, own, operate and maintain a gas distribution system to serve said Village of Vergennes and environs.

The total estimated volumes of natural gas necessary to meet Applicant's annual and peak day requirements for the first 3 full years of operation of the proposed facilities are:

	First year	Second year	Third year
Annual (Mcf)	4,689	7,320	8,988
Peak day (Mcf)	54	81	100

The total estimated cost of Applicant's proposed transmission and distribution facilities is $54,850, which cost will be financed from internally generated funds.

Respondent was duly notified by letter of the Commission dated May 18, 1966, of the filing of the application by Applicant for an order directing it to provide the requested connection and service. The Respondent filed an answer to the application on May 31, 1966, stating it had no objection to the requested connection and service if limited to the requested third year requirement of 100 Mcf per day.

Due notice of the filing of the subject application and opportunity for hearing thereon have been given by publication in the Federal Register on June 3, 1966 (31 F.R. 7924). No protest, petition to intervene, notice of intervention or request for hearing has been filed in this proceeding.

The Commission finds:

(1) Natural Gas Pipeline Company of America (Respondent), a Delaware corporation having its principal place of business in Chicago, Illinois, is a

"natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of November 7, 1958, in Docket No. G-9966 (20 FPC 694).

(2) Applicant, Central Illinois Public Service Company, an Illinois corporation having its principal place of business in Quincy, Illinois, is a corporation legally authorized to engage in the local distribution of natural gas to the public within the meaning of Section 7(a) of the Natural Gas Act.

(3) It is necessary and desirable in the public interest to direct Respondent to establish physical connection of its transmission facilities with the facilities proposed to be constructed and operated by Applicant, and to sell and deliver to Applicant under a service agreement to be executed by Applicant with Respondent in accordance with the Commission's Regulations, up to 100 Mcf per day of natural gas for distribution and resale as hereinbefore described.

(4) The requirement that Respondent serve Applicant, as hereinafter ordered, will not impair Respondent's ability to render adequate service to its existing customers.

(5) Applicant should be prepared to receive natural gas from Respondent for distribution in the Village of Vergennes in Jackson County, Illinois, and environs within one year from the date of the issuance of this order.

The Commission orders:

(A) Respondent is directed to establish physical connection of its facilities with the facilities proposed to be constructed and operated by Applicant, Central Illinois Public Service Company as herein described, and to sell and deliver up to 100 Mcf of natural gas daily to Applicant under a service agreement to be executed by Applicant with Respondent in accordance with the Commission's Regulations, for transportation, distribution and resale in the Village of Vergennes and environs in Jackson County, Illinois, as hereinbefore described. Such service shall be rendered pursuant to Respondent's presently filed appropriate rate schedule.

(B) Respondent shall report to the Commission, in writing the date of commencement of service to Applicant within 15 days after such service begins.

(C) Applicant shall be prepared to receive service as directed herein within one year from the date of issuance of this order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

CITY OF EUGENE, OREGON, BY AND THROUGH ITS EUGENE WATER & ELECTRIC BOARD, PROJECT NO. 2242

ORDER APPROVING REVISED PROJECT EXHIBIT K MAPS AND FIXING ANNUAL LAND CHARGES

(Issued August 8, 1966)

On January 4, 1965, as supplemented on January 24, 1966, the City of Eugene, Oregon, by and through its Eugene Water & Electric Board, filed application for Commission approval of revised Exhibit K maps defining the final boundaries of Project No. 2242, known as the Carmen-Smith Project, located on the McKenzie River and its tributary, Smith River, in Lane and Linn Counties, Oregon, and affecting lands of the United States within the Willamette National Forest.

The revised exhibits show that the project works, other than transmission line right-of-way, occupy 473.18 acres of National Forest lands, and that the project transmission line occupies a 70-foot wide and 10.75 miles long right-of-way on National Forest lands. Thus, for the first time since the effective date of the license for the project, namely, December 1, 1958, we are able to fix in the license the annual charges for such occupancy.

The Chief, Forest Service, acting for the Secretary of Agriculture, who has supervision over the Willamette National Forest, has advised that the project boundary shown on the revised exhibit maps is satisfactory.

The licensee filed as part of the aforementioned application a copy of an agreement with the Forest Service, required to be entered into by Article 30 of the license covering specific measures for (a) fire prevention and control, (b) protection of forest lands and resources, (c) relocation and replacement of Forest Service improvements and facilities insofar as affected by the project, and (d) planning or participation in construction of project roads. The agreement covers the cooperation by the licensee with the Forest Service in the development of recreation, required by Article 31 of the license. Commission approval of the agreement is not required by the license.

The Commission finds:

(1) The following described revised Exhibit K maps conform to the Commission's rules and regulations and should be approved as part of the license for the project:

Exhibit K: Third Revision, Sheet 1 (FPC No. 2242–31), Sheet 2 (FPC No. 2242–32), Sheet 3 (FPC No. 2242–33) and Sheet 4 (FPC No. 2242–34).

(2) The amount of annual charges to be paid under the license for recompensing the United States for the use, occupancy, and enjoyment of its lands by the project is reasonable as hereinafter fixed and specified.

The Commission orders:

(A) The revised Exhibit K maps described in finding (1) above are hereby approved as part of the license for Project No. 2242.

(B) Article 28 of the license is hereby modified to read as follows:

Article 28: The Licensee shall pay to the United States the following annual charges, effective as of December 1, 1958:

(i) For the purpose of reimbursing the United States for the costs of administration of Part I of the Act, a reasonable annual charge in accordance with the provisions of Part 11 of the Commission's regulations. The authorized installed capacity for such purpose is 120,000 hp;

(ii) for the purpose of recompensing the United States for the use, occupancy, and enjoyment of its lands, exclusive of those used for transmission line right-of-way, $1,135.63, and

(iii) for the purpose of recompensing the United States for the use, occupancy, and enjoyment of its lands used for transmission line right-of-way only, $60.20.

(C) This order shall become final 30 days from the date of its issuance unless application for rehearing shall be filed as provided in Section 313(a) of the Act, and failure to file such an application shall constitute acceptance of this order. In acknowledgment of the acceptance of this order, it shall be signed for the licensee and returned to the Commission within 60 days from the date of issuance of this order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

ILLINOIS POWER COMPANY, DOCKET NO. E-7245

ORDER AMENDING PRIOR ORDER PROVIDING FOR INVESTIGATION AND HEARING; GRANTING MOTIONS IN PART AND DENYING MOTIONS IN PART

(Issued August 8, 1966)

On September 16, 1965, 34 FPC 860, the Commission issued an order herein directing an investigation and hearing as to the lawfulness of the rates and charges of Illinois Power Company (Illinois Power) for wholesale electric service to the Villages of Fithian, Ladd, Ogden, Oglesby, and Sawyerville, Illinois, Cedar Point Light and Water Company, and Central Illinois Electric and Gas Company (CIE&G). On October 25, 1965, Illinois Power filed a motion and answer thereto, denying that the Company's rates and charges to the seven aforenamed customers are subject to this Commission's jurisdiction under the Federal Power Act. It requested, in the alternative, that this proceeding be terminated, that the question of lawfulness of the rates and charges to Illinois Power's seven wholesale purchasers be deferred pending a final Commission decision as to the Company's claims that this Commission lacks jurisdiction over its wholesale rates and charges, or that there be a separation of the hearing in this proceeding into jurisdictional and rate issues.

On April 12, 1966, Illinois Power filed an amended motion and answer in which it requests additionally that this proceeding be terminated with respect to the rates and charges for service to Sawyerville and CIE&G.

This order denies Illinois Power's motions insofar as they seek termination of this proceeding as to its service to CIE&G and a prior determination of the jurisdictional issue or separation of the jurisdictional and rate issues, and grants Illinois Power's motion to terminate this proceeding regarding its wholesale rate to Sawyerville. Additionally, this order requires Illinois Power to furnish cost and revenue data using 1965 rather than 1964 as the test year; and sets a date for the prehearing conference to be held herein.

Illinois Power's request that the Commission vacate its order of September 16, 1965, for lack of jurisdiction is premised largely upon factual allegations that should be established at a hearing. Moreover, notwithstanding Illinois Power's claims that a small part of its total system revenues are derived from wholesale sales, prior determination of the jurisdictional issue would result in considerable delay of any rate relief to the wholesale customers concerned in the event that the Company's rates and charges are found to be unlawful. Therefore, we believe that all issues in this proceeding should be tried concurrently.

Since the Commission's initial order herein, Illinois Power's direct sale to CIE&G (Illinois Power's Rate Schedule FPC No. 31) has been replaced by an interchange arrangement among Illinois Power, CIE&G, and the Commonwealth Edison Company (Illinois Power's Rate Schedule FPC No. 34).[1] Therefore, the hearing in this proceeding should include as an issue the question of the lawfulness of Illinois Power's Rate Schedule FPC No. 34. In addition, the Commission by order issued July 15, 1966, *Illinois Power Company*, Docket No. E-7282, 36 FPC 59, approved, pursuant to Section 203 of the Federal Power

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[1] Also designated as CIE&G's Rate Schedule FPC No. 2 and Commonwealth Edison Company's Rate Schedule FPC No. 8.

Act, the acquisition and merger of the Sawyerville electric system with its own facilities by Illinois Power. Accordingly, Illinois Power's rates to Sawyerville no longer should be subject to our order of investigation and hearing.

To permit the use of the most recent cost of service data (complete 1965 test year costs were not available at the time of our initial order) we shall modify our order of September 16, 1965, to require the Company to furnish such data reflecting 1965 costs of rendering service to the six wholesale purchasers remaining. Additionally, we shall set a specific date for a prehearing conference to facilitate an orderly scheduling of service of testimony and disposition of other prehearing matters.

The Commission further finds:

It is necessary and appropriate for purposes of the Federal Power Act, particularly Sections 205, 206, 208, 301, 307, 308 and 309 thereof, that the Commission's order for investigation and hearing issued September 16, 1965, be amended so as to exclude from the scope of the hearing ordered therein the question of the lawfulness of Illinois Power's rate schedule for wholesale service to Sawyerville and to include the issue of the lawfulness of Illinois Power's Rate Schedule FPC No. 34, require Illinois Power to submit cost of service data reflecting 1965 test year costs, and set a definite date for a prehearing conference in this proceeding.

The Commission orders:

(A) Paragraph (A) of the Commission's order issued September 16, 1965, is hereby amended to exclude from the scope of the hearing ordered therein the issue of the lawfulness of Illinois Power's rate schedule for wholesale electric service to Sawyerville and include the issue of the lawfulness of Illinois Power's Rate Schedule FPC No. 34.

(B) Paragraph (E) of the Commission's order issued September 16, 1965, is hereby amended to require Illinois Power, within 45 days from the date hereof, to submit a special report setting out cost and revenue data using 1965 as the test year, showing Illinois Power's costs of rendering service to each of the six purchasers remaining subject to the Commission's aforesaid hearing order.

(C) A prehearing conference shall be held before a presiding examiner at 10 a.m. (EDST) on October 4, 1966, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, for purposes as specified in the Commission's Rules of Practice and Procedure.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

MISSOURI NATURAL GAS COMPANY, DOCKET NO. CP66-384 AND MISSISSIPPI RIVER TRANSMISSION CORPORATION, DOCKET NO. CP66-385

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued August 8, 1966)

On May 23, 1966, Missouri Natural Gas Company (Applicant), filed in Docket No. CP66-384 an application as supplemented on June 16, 1966, pursuant to Section 7(a) of the Natural Gas Act for an order directing Mississippi

River Transmission Corporation (Respondent) to establish a physical connection of its natural gas transmission facilities with the facilities proposed to be constructed by Applicant and to sell and deliver to Applicant up to 364 Mcf of natural gas per day for resale and distribution in the unincorporated community of Selma, in Jefferson County, Missouri, all as more fully set forth in said application.

Applicant states that Selma has a population of approximately 650 inhabitants and estimates the natural gas requirements of the community during the first three years of proposed operations in Docket No. CP66–384 to be as follows:

	First year	Second year	Third year
Annual (Mcf)	17,697	23,829	30,128
Peak day (Mcf)	214	289	364

Applicant proposes in Docket No. CP66–384 to construct and operate approximately 15,000 feet of 4-inch pipeline lateral and a distribution system to serve Selma. Such facilities will connect with Respondent's 12-inch line No. A–151 at the point where Respondent's line crosses U.S. Highway No. 61. The estimated cost of the proposed construction is $175,500.

On May 23, 1966, Missouri Natural Gas Company (Applicant), filed in Docket No. CP66–385 an application as supplemented on June 14 and 30, 1966, pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Mississippi River Transmission Corporation (Respondent) to establish physical connection of its transportation facilities with the facilities proposed to be constructed by Applicant and to sell and deliver to Applicant volumes of natural gas for resale and distribution in the City of Leadwood, St. Francois County, Missouri, and its environs, all as more fully set forth in said application.

Applicant proposes in Docket No. CP66–385 to construct, own and operate distribution facilities within the City of Leadwood. Applicant states that such facilities will connect with Respondent's existing, but essentially unused, pipeline which passes along the southern edge of Leadwood, where it formerly served the total requirements of a St. Joseph Lead Company.

The total estimated volumes of natural gas necessary to meet Applicant's annual and peak day requirements for the initial three-year period of proposed operations in Docket No. CP66–385 are stated to be:

	First year	Second year	Third year
Annual (Mcf)	24,835	32,669	36,668
Peak day (Mcf)	323	425	476

The estimated cost of Applicant's proposed construction is $203,500.

On June 2, 1966, Respondent was duly advised of the applications filed in these proceedings, and due notice of the filings and opportunity for hearings thereon has been given by publication in the Federal Register on June 9, 1966 (31 F.R. 8144) in Docket No. CP66–384 and on June 9, 1966 (31 F.R. 8145) in Docket No. CP66–385. No protest, petition to intervene or request for hearing has been filed in this proceeding.

Respondent by answer filed in each docket on July 7, 1966, supports Applicant's request for service.

The Commission finds:

(1) Respondent, Mississippi River Transmission Corporation, a Delaware corporation having its principal place of business in St. Louis, Missouri, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of November 29, 1960, in Docket No. CP60–95 (24 FPC 1020).

(2) Applicant, a Missouri corporation having its principal place of business in Farmington, Missouri, is a corporation legally authorized to engage in the local distribution of natural gas to the public within the meaning of Section 7(a) of the Natural Gas Act.

(3) It is necessary and desirable in the public interest to direct Respondent to establish physical connection of its transmission facilities with the facilities proposed to be constructed and operated by Applicant, and to sell and deliver to Applicant under service agreements to be executed by Applicant with Respondent in accordance with the Commission's Regulations, up to 364 Mcf per day for Selma and 476 Mcf per day for Leadwood for distribution and resale therein, as hereinbefore described.

(4) The requirement that Respondent serve Applicant, as hereinafter ordered, will not impair its ability to render adequate service to its existing customers.

(5) Applicant should be prepared to receive natural gas from Respondent for distribution in Selma and Leadwood, and environs within one year from the date of the issuance of this order.

The Commission orders:

(A) Mississippi River Transmission Corporation is directed to establish physical connection of its facilities with the facilities proposed to be constructed and operated by Applicant, as herein described, and to sell and deliver up to 364 Mcf per day for Selma and 476 Mcf per day for Leadwood to Applicant under service agreements to be executed by Applicant with Respondent in accordance with the Commission's Regulations, for distribution and resale as hereinbefore described.

(B) Respondent shall report to the Commission in writing the dates of commencement of service to Applicant for said communities within 10 days thereof.

(C) Applicant shall be prepared to receive service for said communities as directed herein within one year from the date of issuance of this order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

NATURAL GAS PIPELINE COMPANY OF AMERICA, DOCKET NOS. CP66–360 AND CP66–361

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 8, 1966)

On May 12, 1966, Natural Gas Pipeline Company of America (Applicant) filed in Docket No. CP66–360 an application, as supplemented on June 6, 1966, pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of additional natural gas for sale on a firm basis to The New Jersey Zinc Company in Depue, Bureau County, Illinois, all as more fully set forth in the application as supplemented.

On May 12, 1966, Applicant filed in Docket No. CP66-361 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities in Bureau County, Illinois, for use in serving the additional requirements of The New Jersey Zinc Company and Illinois Power Company, all as more fully set forth in the application.

In its application filed in Docket No. CP66-360 Applicant proposes to sell an additional 2,000 Mcf of gas per day on a firm basis to The New Jersey Zinc Company, an existing direct industrial customer, for use in its expanded facilities in Depue, Bureau County, Illinois. The increased requirements will be met from Applicant's presently authorized mainline capacity. No additional facilities are proposed in Docket No. CP66-360.

In its application filed in Docket No. CP66-361 Applicant proposes to construct and operate approximately 3.7 miles of 20-inch pipeline looping its existing Depue 4-inch lateral from a point of connection with its 24-inch mainline to a new delivery point to Illinois Power Company at the junction of Applicant's Depue lateral with a new 16-inch pipeline to be constructed by Illinois Power Company, all in Bureau County, Illinois. The facilities will be utilized initially to serve the additional requirements of the New Jersey Zinc Company and to increase by 5,400 Mcf per day deliveries to Illinois Power Company.

After due notice no petition to intervene, notice of intervention or protest to the granting of the applications has been received.

At a hearing held on August 4, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications, as supplemented, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Natural Gas Pipeline Company of America, a Delaware corporation having its principal place of business in Chicago, Illinois, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of October 13, 1942, in Docket No. G-235 (3 FPC 830).

(2) The facilities hereinbefore described, as more fully described in the applications in this proceeding, are to be used in the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission, and the construction and operation thereof and the transportation of natural gas by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The proposed construction and operation of facilities and the transportation of natural gas by Applicant are required by the public convenience and necessity, and certificates therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates issued hereinafter and the rights granted thereunder should be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly

the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) Certificates of public convenience and necessity are issued authorizing Applicant, Natural Gas Pipeline Company of America, to construct and operate the proposed facilities and to transport natural gas as hereinbefore described, all as more fully described in the applications in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The construction of facilities authorized herein shall be completed and placed in actual operation and the transportation of natural gas shall commence within six months from the date of this order as provided by paragraph (b) of Section 157.20 of the Regulations under the Natural Gas Act.

(D) The certificate issued in Docket No. CP66-360 shall not entitle The New Jersey Zinc Company, to whom firm deliveries are authorized herein, to any priorities to additional gas for meeting any future increases in its requirements at the expense of firm resale customers desiring to acquire additional gas to meet any future increases in their requirements.

(E) The certificate issued in Docket No. CP66-361 shall not entitle Illinois Power Company to any priority to additional gas for meeting any future increases in its requirements at the expense of other firm resale customers desiring to acquire additional gas to meet any future increases in their requirements.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

NATURAL GAS PIPELINE COMPANY OF AMERICA, DOCKET NO. CP66-377

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 8, 1966)

On May 18, 1966, Natural Gas Pipeline Company of America (Applicant) filed in Docket No. CP66-377 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a measuring station, appurtenant facilities and approximately 8.57 miles of 30-inch pipeline extending from its proposed 36-inch Dyer Road pipeline, which latter line was authorized, but is not yet constructed, by the Commission's order issued on May 27, 1966, in Docket No. CP66-169 (Phase I). Applicant's proposals are all more fully set forth in the application in the instant docket.

Applicant will construct and operate the proposed lateral line in order to provide a new delivery point for an existing customer, Northern Indiana Public Service Company (Northern Indiana). The new delivery point will be located at the Illinois-Indiana state line in the northeast corner of Kankakee County, Illinois, approximately 17 miles south of existing points of delivery to Northern Indiana.

Applicant now delivers gas to Chicago District Pipeline Company (Chicago District) for the account of Northern Indiana. Chicago District transports and delivers such gas to Northern Indiana at the Indiana-Illinois state line near Hammond and Munster, Indiana. Applicant states that Northern Indiana has advised that if increases in delivery volumes of natural gas as proposed in Docket No. CP66-169 * are delivered at the existing delivery points at Hammond and Munster, Northern Indiana will be required to construct a larger diameter high pressure pipeline through the congested metropolitan area of Hammond and Gary. The application indicates that in addition to the expense of such a project, further concentration in this single area of large volume deliveries to Northern Indiana is a threat to continuity of service. Applicant states that there would be a serious interruption or curtailment to Northern Indiana's customers in the Gary-Hammond area in the event of operational loss of any of Northern Indiana's facilities or those of Chicago District used for delivery to Northern Indiana.

The estimated cost of construction of the facilities necessary for the proposed new delivery point is $1,178,816, which cost will be financed from funds on hand.

Gas delivered through the proposed new lateral line will be subject to a facility charge under the provisions of Applicant's proposed FPC Gas Rate Schedule F-1. Said rate schedule provides for a facility charge when Applicant constructs new laterals at the request of a buyer.

No increase in peak day deliveries is contemplated in the instant proceeding.

On June 13, 1966, Northern Indiana filed a petition to intervene in support of the subject application.

After due notice, no other petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on August 4, 1966, the Commission on its own motion received and made a part of the record in this proceeding, all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Natural Gas Pipeline Company of America, a Delaware corporation having its principal place of business in Chicago, Illinois is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of October 13, 1942, in Docket No. G-235 (3 FPC 830).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are to be used in the transportation and sale of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's

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*38,961 Mcfd of the total proposed increase of 68,587 Mcfd in Docket No. CP66-169 already have been authorized by the order of May 27, 1966, in Phase I, 35 FPC 828.

compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(6) Applicant should file with the Commission its statement of lateral line policy and its proposed FPC Gas Rate Schedule F-1 and related service agreement in conformance with data submitted in the application in this proceeding.

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Applicant, Natural Gas Pipeline Company of America, to construct and operate the proposed facilities as hereinbefore described, all as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be constructed and placed in actual operation, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within 9 months from the date on which this order issues.

(D) Applicant shall file with the Commission its statement of lateral line policy and its proposed FPC Gas Rate Schedule F-1 and related service agreement in conformance with data submitted in the application in this proceeding.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

NORTHERN NATURAL GAS COMPANY, DOCKET NO. CP66-321

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND ACCEPTING FOR FILING PROVISIONAL RATE SCHEDULE

(Issued August 8, 1966)

On April 7, 1966, Northern Natural Gas Company (Applicant) filed an application in Docket No. CP66-321 pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity, requesting authority to construct and operate a pipeline tap on its 24-inch "A" line in Ochiltree County, Texas, to deliver natural gas to Consolidated Utilities, Inc. (Consolidated) for resale as irrigation pump fuel. Supplements to such application were filed by Applicant on May 17, and June 1, 1966.

The natural gas which Applicant proposes to deliver to Consolidated will be natural gas produced, transported and consumed within Texas. Applicant, however, has filed the application pending the final judicial determination of the so-called *Florida Parishes Case*, Commission Opinion Nos. 401 and 401-A, *United Gas Pipe Line Company*, 30 FPC 560, 31 FPC 1152; affirmed *sub nom. Louisiana Public Service Commission* v. *F.P.C.*, 359 F. 2d 525.[1]

Under the terms of the contract between Applicant and Consolidated dated January 20, 1966, Applicant proposes to deliver up to a maximum of 3,000 Mcf of natural gas per day which will not be subject to interruption except during the period beginning on October 27 and ending March 27 of the following year.

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[1] Petition for certiorari filed July 1, 1966, by Louisiana Public Service Commission, *et al.* Action pending in U.S. Supreme Court.

Estimated peak day and annual deliveries during the third year of service are 600 Mcf and 70,000 Mcf, respectively.

The proposed basic rate for the natural gas to be delivered is 25 cents per Mcf. The minimum monthly bill will be $10.00 for each delivery point established by Applicant.[2] Article III of the contract between Applicant and Consolidated dated January 20, 1966, contains automatic price adjustment clauses which Applicant has agreed not to make effective pending final determination of the jurisdictional question.

For the purpose of this proceeding we will accept the contract between Applicant and Consolidated as a provisional rate schedule pending the final determination of the jurisdictional issue presented.

The estimated cost of the pipeline tap to be constructed by Applicant is $155.00. Applicant will be reimbursed by Consolidated for the cost of the installation.

After due notice, no petition to intervene, notice of intervention or protest to the application has been filed.

At a hearing held on August 4, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, as supplemented, submitted in support of the authorizations sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, Northern Natural Gas Company, a Delaware corporation having its principal place of business in Omaha, Nebraska, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of April 6, 1943, in Docket No. G–280 (3 FPC 967).

(2) The proposed construction and operation of facilities, and the sale of natural gas in interstate commerce, as hereinbefore described and as more fully described in the application, and exhibits, as supplemented, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed construction and operation of facilities and sale of natural gas are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant authorizing the construction and operation of facilities, and the sale of natural gas in interstate commerce, as hereinbefore described and as more fully described in the application, as supplemented and exhibits filed in this proceeding, upon the terms and conditions of this order.

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[2] Applicant contemplates installing additional delivery points under budget type sales authorizations.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The certificate issued by paragraph (A) above is granted subject to the following conditions:

(1) Natural gas deliveries to Consolidated authorized herein shall not exceed 3,000 Mcf daily.

(2) The price of the natural gas fixed at 25 cents per Mcf shall not be escalated under the automatic price adjustment provision of Article III of the Contract between Applicant and Consolidated dated January 20, 1966.

(D) The facilities authorized by paragraph (A) above shall be constructed and placed in actual operation as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within 6 months from the date on which this order issues.

(E) The contract between Applicant and Consolidated dated January 20, 1966, filed in the proceeding as Exhibit I to the application is accepted for filing pursuant to Commission Regulation 154.52 as a Provisional Rate Schedule for an interim period pending decision of jurisdictional issue.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

PACIFIC GAS AND ELECTRIC COMPANY, DOCKET NO. E-7298

ORDER AUTHORIZING ACQUISITION AND MERGER OR CONSOLIDATION OF FACILITIES

(Issued August 8, 1966)

Pacific Gas and Electric Company (Applicant), incorporated under the laws of the State of California and qualified to do business in that state, with its principal place of business at San Francisco, California, filed an application with the Federal Power Commission on June 7, 1966, as subsequently amended and supplemented, seeking an order, pursuant to Section 203 of the Federal Power Act, authorizing Applicant to acquire and to merge or consolidate with its own facilities an electric utility system owned and operated by Cecil J. McIntyre, Kenneth D. McIntyre, and Doris E. Scruggs, who as individuals and as a co-partnership do business under the firm name and style of Indian Valley Light and Power Company (Indian Valley). The principal place of business of Indian Valley is in the Town of Greenville, Plumas County, California.

Applicant is engaged in the generation, purchase, transmission, distribution and sale of electric energy throughout most of northern and central California, including 46 of California's 58 counties. Applicant furnishes retail electric service to approximately 2,286,978 residential, commercial, industrial, agricultural and municipal customers in 197 incorporated cities, more than 300 unincorporated communities (each of 250 or more estimated population), and an extensive rural area.

Indian Valley is engaged in the purchase, distribution, and sale at retail of electric energy in Plumas County, California. Indian Valley serves approximately 836 residential, commercial, industrial, and municipal customers.

Indian Valley does not generate any electric energy. Indian Valley purchases all its electric supplies at wholesale from Applicant. The facilities which Applicant seeks to acquire constitute all the electric facilities utilized by Indian Valley in serving its customers. The electric facilities owned and operated by Indian Valley are located in Plumas County and they include a substation, poles, conductors, transformers, switching devices, meters, street lighting installations, and certain parcels of land utilized for substation and pole yard purposes. As of December 31, 1965, the depreciated original cost of Indian Valley's electric plant was $220,303. For the 12 months ended December 31, 1965, Indian Valley received a total of $240,822 in electric operating revenues.

Under the terms of an agreement dated January 13, 1966 between Indian Valley and Applicant, as amended by their agreement dated May 9, 1966, copies of which were filed as exhibits to the application, Indian Valley proposes to sell and Applicant proposes to purchase all electric facilities of Indian Valley for a consideration of $590,000 payable in cash, subject to certain adjustments. Applicant will assume certain liabilities and credits of Indian Valley, including customer deposits, customer advances for construction, and contributions in aid of construction. The application represents that the amount of the consideration is the result of arm's-length bargaining. The consideration would have been $572,373 as of December 31, 1965. The net assets, including electric plant in service at depreciated original cost, of Indian Valley to be acquired by Applicant totaled $206,870 as of December 31, 1965. A cash payment of $572,373 by Applicant for Indian Valley's net assets of $206,870 would result in the creation of an electric plant acquisition adjustment of $365,503 on the books of Applicant as of December 31, 1965. The entire amount of any acquisition adjustment created by the proposed transaction will be eliminated by Applicant by a debit to Account 435, Miscellaneous Debits to Surplus, according to the application.

The electric service areas of Indian Valley and Applicant are adjacent to each other in Plumas County and their respective electric systems are interconnected at the points where Applicant makes wholesale deliveries of electric power and energy to Indian Valley. Upon consummation of the proposed transaction the electric facilities currently owned and operated by Indian Valley will become part of the interconnected and integrated electric system owned and operated by Applicant for serving northern and central California. Applicant will utilize the facilities acquired from Indian Valley to provide electric service to the present customers of Indian Valley.

Applicant represents that under the rates it proposes to make effective most of the present customers of Indian Valley will receive rates lower than they are now receiving and the remainder of such customers will receive no increase in rates.

Written notice of the application has been given to the Public Utilities Commission of the State of California and to the Governor of that State. Notice of the application was also published in the Federal Register on June 21, 1966 (31 F.R. 8607), stating that any person desiring to be heard or to make any protest with reference to the application should on or before July 8, 1966 file with the Federal Power Commission, Washington, D.C, 20426, a petition or protest: No petition or protest or request to be heard in opposition to the granting of the application has been received.

The Public Utilities Commission of the State of California, by order dated June 14, 1966, authorized Indian Valley and Applicant to consummate the proposed transaction in the manner as described above.

The Commission finds:

(1) Applicant, a corporation, is a public utility within the meaning of Section 203 of the Federal Power Act subject to the jurisdiction of the Commission as heretofore determined and set forth in the Commission's order issued March 13, 1958, *Pacific Gas and Electric Company* (19 FPC 326).

(2) By the proposed acquisition of the electric facilities of Indian Valley, as described above, Applicant will merge or consolidate its facilities subject to the jurisdiction of the Commission with those of Indian Valley, another person, within the meaning and subject to the requirements of Section 203 of the Act.

(3) The proposed acquisition and merger or consolidation of the electric facilities of Indian Valley by Applicant, as recited above, upon the terms and conditions specified in the application and subject to the provisions of this order will be consistent with the public interest as expressed in Section 203 of the Act for the reasons set forth above.

The Commission orders:

(A) The proposed acquisition and merger or consolidation of the electric facilities of Indian Valley by Applicant, as described above, is hereby authorized and approved upon the terms and conditions as set forth in the application, subject to the provisions of this order.

(B) Applicant shall record the transaction herein authorized and the facilities and properties described above as provided in the Commission's Uniform System of Accounts Prescribed for Public Utilities and Licensees, particularly the provisions of Account 102, Electric Plant Purchased or Sold, Account 114, Electric Plant Acquisition Adjustments, and appropriate Electric Plant Instructions, thereof.

(C) Any acquisition adjustment created by the transaction herein authorized shall be eliminated by a debit to Account 435, Miscellaneous Debits to Surplus.

(D) This authorization shall expire unless the transaction herein authorized is consummated within 90 days from the date of issuance of this order.

(E) This authorization is without prejudice to the authority of this Commission or any other regulatory body with respect to rates, service, accounts, valuations, estimates or determinations of cost, or any other matter whatsoever now pending or which may come before this Commission or any other regulatory body, and nothing herein shall be construed as an acquiescence by this Commission in any estimate or determination of cost or any valuation of property claimed or asserted.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

TEXACO INC., DOCKET NO. CI64–475

ORDER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 8, 1966)

On December 17, 1964, Texaco Inc. (Petitioner) filed in Docket No. CI64–475 a petition to amend the order issuing a certificate of public convenience and necessity in said docket on May 6, 1964, 31 FPC 1125, by modifying certain delivery conditions, all as more fully set forth in the petition to amend.

Petitioner's contract of October 10, 1963,[1] with Texas Gas Transmission Corporation (Texas Gas), the purchaser, provides that Petitioner will deliver contract volumes at the delivery point at a ratio of up to 17 percent of the total annual volumes from the area defined as the "Southern Louisiana Area," which is subject to the tax jurisdiction of the State of Louisiana, to 83 percent from the area defined as the "Offshore Federal Domain." By an amendment dated February 11, 1964, Petitioner and Texas Gas agree that Petitioner may deliver varying quantities of gas from the Southern Louisiana Area and the Offshore Federal Domain in order to provide flexibility in Petitioner's field operations. The amendment does not change either the price provisions of the basic contract or the Commission's order issuing the certificate. All gas sold from the Southern Louisiana Area will continue to be sold at 20.625 cents per Mcf during the period that the settlement[2] remains in effect, and all gas produced from the Offshore Federal Domain will continue to be sold at 19.0 cents per Mcf for the same period of time. The amendment provides that the weighted average price per Mcf for combined deliveries from the Southern Louisiana Area and the Offshore Federal Domain to be paid by Texas Gas during any month of any contract year through December 31, 1967, shall not exceed 19.8 cents per Mcf.

Petitioner also requests that the order issuing the certificate be clarified to reflect the fact that Petitioner has the right to make up gas paid for but not taken during the first five contract years during the next five-year period.

After due notice a petition for leave to intervene was filed and withdrawn by the Memphis Light, Gas & Water Division, City of Memphis, Tennessee, and a notice of intervention was filed and withdrawn by the Public Service Commission of the State of New York.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the order issuing a certificate to Petitioner in Docket No. CI64–475 should be amended as hereinafter ordered.

The Commission orders:

(A) Pursuant to its FPC Gas Rate Schedule No. 343, as supplemented, Petitioner is authorized to deliver varying quantities of natural gas from the Southern Louisiana Area and the Offshore Federal Domain provided that the weighted average delivered price to Texas Gas does not exceed applicable levels specified in Supplement No. 3 to said rate schedule. As provided in said rate schedule, as supplemented, all gas produced from the Southern Louisiana Area and the Offshore Federal Domain shall be at prices applicable to each area. During the period in which the settlement prices are in effect, the price of all volumes of gas delivered from the Southern Louisiana Area shall be 20.625 cents per Mcf and the price of all volumes of gas delivered from the Offshore Federal Domain shall be 19.0 cents per Mcf.

(B) During the first five contract years, or until November 1, 1969, Texas Gas shall take or pay for the total sum of the daily minimum quantities determined at the end of the five-year period and does not have to pay for any gas not taken during the five-year period until the end of such period. Thereafter,

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[1] Texaco Inc. FPC Gas Rate Schedule No. 343.

[2] An offer of settlement was submitted by Petitioner on February 27, 1964, and supplemented on March 17, 1964. The Commission accepted the terms and conditions of the settlement in the order issuing the certificate to Petitioner.

Texas Gas has the right to make up any gas not taken during the previous five-year period in the next five years. After November 1, 1969, Texas Gas must take or pay for a yearly volume equal to the minimum quantity times the number of days in the year, with a make-up period of five years.

(C) The amendment dated February 11, 1964, is accepted for filing to be effective on the date of this order and is designated as Supplement No. 3 to Texaco Inc. FPC Gas Rate Schedule No. 343.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

CONSOLIDATED GAS SUPPLY CORPORATION, DOCKET NO. CP66-250

FINDINGS AND ORDER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 9, 1966)

On May 16, 1966, Consolidated Gas Supply Corporation (Petitioner) filed in Docket No. CP66-250 a petition to amend the Commission's order issued March 28, 1966, 35 FPC 421, in said docket, by authorizing the construction and operation of one 30-inch and one 24-inch pipeline river crossing of the Ohio River in lieu of the dual 24-inch river crossing heretofore authorized in this proceeding, all as more fully set forth in the petition to amend.

The order of March 28, 1966, authorized, among other things, the construction and operation of 25 miles of 30-inch transmission pipeline extending from the existing Hastings Compressor Station, Wetzel County, West Virginia, to a proposed new delivery point in Monroe County, Ohio, for The East Ohio Gas Company, together with a related dual 24-inch river crossing of the Ohio River.

Petitioner states that the authorization requested by the subject petition would result in a saving of $72,000, in the total estimated cost of construction authorized by the March 28, 1966, order. This saving results primarily from the elimination of two 30-inch and four 24-inch scraper traps at the river crossing and the replacement of four 24-inch valves with two 16-inch valves. This is made possible because it is now proposed that the 24-inch crossing will be maintained as an emergency line only, not requiring scraper traps, and the 30-inch line will extend the entire distance to the Monroe County delivery point. A portion of the anticipated savings result also from a minor change of location of the river crossing which will permit a shorter crossing.

Due notice of the filing of the petition to amend and opportunity for hearing thereon has been given by publication in the Federal Register on May 27, 1966, (31 F.R. 7645). No protest or petition to intervene has been filed in this proceeding.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's order issued March 28, 1966, in Docket No. CP66-250 be amended as hereinafter ordered.

The Commission orders:

(A) The Commission's order issued March 28, 1966, in Docket No. CP66-250 is amended by authorizing the construction and operation of one 30-inch and one 24-inch pipeline river crossing of the Ohio River in lieu of the dual 24-inch river crossing heretofore authorized in this docket, all as hereinbefore described and as set forth in the petition to amend.

(B) In all other respects said order shall remain in full force and effect.

OPINION NO. 503

DUKE POWER COMPANY, DOCKET NO. E-7266

OPINION AND ORDER DETERMINING JURISDICTION OVER ACQUISITION OF FACILITIES

(Issued August 9, 1966)*

Syllabus

1. Term "those of any other person" as characterized in Section 203(a) of the Federal Power Act is broader than term "public utility"; thus "person" suggests that facilities to be acquired could be non-jurisdictional distribution facilities. P. 401.
2. Essentially, Section 203 is designed to ensure that growth of operating utilities be economic and render adequate service to public. P. 401.
3. Section 203 insures that transfers of utility property to, as well as from, jurisdictional companies will be in public interest, particularly from standpoint of economy and coordination of facilities—it makes little difference whether property transferred is jurisdictional or not. P. 402.
4. In case of acquisitions, Commission by regulation limited necessity to file Section 203 applications to mergers or consolidations with facilities of another person having a value in excess of $50,000. P. 403.
5. Although the statute does not impose a $50,000 limitation for acquisition of facilities as it does for disposition, there is no reason why Commission cannot impose such a limitation by regulation. P. 403.
6. With respect to mergers, Commission does not displace state commission jurisdiction. P. 404.
7. While accounting authority is an important part of Commission's regulatory authority over public utilities, there are other interests to be served in approving a merger, such as preservation of financial standing of acquiring company and the physical coordination of facilities. P. 404.
8. For the purposes of Section 203, it can make little difference whether facilities to be acquired are nonjurisdictional because they are distribution facilities or because they are owned by an instrumentality of the state. P. 405.
9. Section 203 grants Commission jurisdiction over acquisition by a "public utility" of any electric facilities even though owned and operated by an entity such as Clemson University, which is not itself subject to Commission jurisdiction. P. 405.
10. In a proceeding for a declaratory order, Commission *determines* it has jurisdiction over acquisition of facilities.

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*Rehearing denied September 28, 1966, 36 FPC 702. Reversed, *Duke Power Co. v. F.P.C.*, 401 F. 2d 930 (CADC–1968).

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

BLACK, *Commissioner*:

In this proceeding Duke Power Company seeks a declaratory order that it need not seek Commission approval of its acquisition of the electric power distribution facilities of Clemson University located in Pickens and Oconee Counties, South Carolina, pursuant to the provisions of Section 203 of the Federal Power Act. The issues are whether we have jurisdiction under Section 203 over the acquisition of facilities by a public utility (1) where the facilities are distribution facilities and (2) where the facilities are owned by a state agency that is exempt from regulation under Section 201(f) of the Power Act. Because of the importance of the first question Duke requests that the decision not be made on the basis of Section 201(f).

Duke Power Company, a North Carolina corporation with its principal place of business in Charlotte, North Carolina, is primarily an electric utility. It serves portions of North Carolina and South Carolina and admits that it is a public utility within the meaning of Part II of the Federal Power Act. Clemson was established under the law of South Carolina, is wholly owned by South Carolina and is operated as an agency of the State for educational purposes. As such it is exempted from our jurisdiction by Section 201(f) of the Power Act.

Before the acquisition Clemson owned, operated and maintained facilities for distributing electric power to certain residential and commercial customers (mostly professors, administrators and employees) living near the campus. All of Clemson's electric power requirements were purchased by Clemson on a wholesale basis from Duke, and Clemson has never owned or operated any facility for the purpose of generating or transmitting electric power other than through its distribution facilities. Duke delivered electric power to Clemson at 4,160 volts at the "Clemson College" substation. The substation and the step-down transformers are, and before the acquisition were, owned by Duke Power Company.

Clemson's distribution facilities were sold to Duke pursuant to an agreement dated June 30, 1964, as authorized by the Public Service Commission of South Carolina by order No. E-937 in Docket No. 12,619 on October 7, 1965. The price paid for the electric distribution facilities and certain water distribution facilities amounts to $279,068. Of this amount Duke has allocated $118,696 to net investment in electric plant and $64,858 to electric plant acquisition adjustments. In this proceeding we are, of course, not determining the correctness of this allocation of the purchase price, but we do, for the purposes of this order, accept the statement that the electric facilities acquired by Duke are of a value in excess of $50,000.

Upon Duke's filing formal entries to record the above transaction, the Secretary of the Commission called Duke's attention to Section 33.1(2) of our Regulations regarding the applicability of Section 203 and requested that Duke file an application with respect to the transaction. Section 33.1(2) reads as follows:

> (2) The merger or consolidation, directly or indirectly of the facilities of a public utility with those of any other person having a value in excess of $50,000. This includes the acquisition by a public utility of the electric facilities of any other person whether or not such person is otherwise subject to the provisions of Part II of the Federal Power Act (including municipalities and companies not engaged in the interstate transmission or sale of electric energy).

By letter of November 1, 1965 (as supplemented by a letter of December 16, 1965) Duke set forth the facts as outlined above and requested that the Commission issue a declaratory order disclaiming jurisdiction over the transaction. On February 14, 1966, 35 FPC 230, the Commission issued an order initiating proceedings for a declaratory order, accepting the letters of November 1 and December 16, 1965 as a factual record, and calling for the exchange of briefs. Accordingly, briefs and reply briefs were filed by Duke and our staff arguing the legal questions.

Section 203(a) provides as follows:

> Sec. 203(a) No public utility shall sell, lease, or otherwise dispose of the whole of its facilities subject to the jurisdiction of the Commission, or any part thereof of a value in excess of $50,000, or by any means whatsoever, directly or indirectly, *merge or consolidate such facilities* or any part thereof with *those of any other person*, or purchase, acquire, or take any security of any other public utility, without first having secured an order of the Commission authorizing it to do so. Upon application for such approval the Commission shall give reasonable notice in writing to the Governor and State commission of each of the States in which the physical property affected, or any part thereof, is situated, and to such other persons as it may deem advisable. After notice and opportunity for hearing, if the Commission finds that the proposed disposition, consolidation, acquisition, or control will be consistent with the public interest, it shall approve the same. [emphasis supplied]

There is no dispute that Duke by acquiring the electric facilities of Clemson would "merge or consolidate" its facilities with other facilities, and this has been the Commission's interpretation. *Pennsylvania Electric Co.*, 9 FPC 91, 95–97.[1] There is no dispute that "such facilities" refers to "facilities subject to the jurisdiction of the Commission." The critical word here is "those", and, as a pure matter of grammar, it is ambiguous. It could mean "jurisdictional facilities", or it could mean just "facilities." The statute characterizes the owner of "those" facilities as including "any other person" rather than just another "public utility". As noted in the *Pennsylvania Electric* case, 9 FPC at p. 98, this term is broader than the term "public utility". It could include a company which is not a public utility because all of its facilities are intrastate or distribution facilities and therefore exempt under Section 201(b) of the Act. It might also include a state agency which is exempt from regulation under Section 201(f) of the Act, as discussed below. Thus the word "person" suggests that the facilities to be acquired could be nonjurisdictional distribution facilities. The legislative history supports this conclusion.

Section 203 as part of the Federal Power Act, 16 U.S.C. § 791a–825r, was enacted along with the Public Utility Holding Company Act of 1935, 15 U.S.C. § 79, *et seq.*, both of which comprised the Public Utility Act of 1935, 49 Stat. 803, and were manifestations of congressional concern over past abuses of the holding company system. As the Senate Committee said, the Federal Power Commission was to have "authority to keep the same kind of check upon the creation of spheres of influence among operating companies that the Securities and Exchange Commission has over holding companies under title I".[2]

Essentially Section 203 is designed to ensure that growth of the operating utilities be economic and render adequate service to the public. The National Power Policy Committee on Public Utility Holding Companies, whose report was transmitted to Congress by the President in urging enactment of the 1935 legislation, said that new acquisitions should not be allowed unless they result in economy and efficiency, and unless the prices bear a proper relation to the capital prudently invested.[3]

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[1] Aff'd on other grounds *Pennsylvania Electric Co.* v. *F.P.C.*, 188 F. 2d 763 (CA3–1951).

[2] Sen. Report No. 621, 74th Cong., 1st Sess., p. 50.

In his testimony in support of the bills that became the Federal Power Act, Mr. Dozier A. Devane, then Solicitor of the Federal Power Commission, pointed to some of the practical reasons for Section 203. The section, he said, went further than to prevent loading down the industry with unnecessary facilities. It was to prevent speculation in utility properties and to insure that they be bought and sold in the public interest.[4] He further pointed out that under the Holding Company Act the utility systems, as then constituted, would be dismembered. There would be "a realinement in the industry and steps should be taken now to protect the public against an uneconomic realinement."[5] He foresaw that the companies would integrate into strong regional systems and that such integration would result in great savings because capacity could be used more efficiently. In this connection the provision in the bill encouraging coordination of facilities was to be viewed together with Section 203 "which requires Commission approval for the purchase and sale of operating properties."[6]

Finally, the Senate Committee summed up the purposes of Section 203 as follows:[7]

> This section furnishes an essential check upon the development of the industry along uneconomic lines. It complements title I of the bill by directing the Commission to prevent transfers or consolidations of property which would impair the ability of public utilities to render adequate service or impede, or tend to impede, the coordination in the public interest of facilities subject to the jurisdiction of the Commission.

At the time of these comments Section 203(a) provided that the Commission should approve the merger "unless it determines that the proposed—merger or consolidation would impair the ability of the public utility or public utilities affected to render adequate service, or would impede or tend to impede, the coordination in the public interest of facilities subject to the jurisdiction of the Commission." The Conference report[8] changed the standard to "consistent with the public interest", but did not change the objectives of Section 203.

The legislative history also shows that Congress in enacting the 1935 legislation was concerned with the break-up and realignment of all facets of the holding company systems. Section 203 was, therefore, designed to insure that transfers of utility property to, as well as from, the companies subject to our jurisdiction would be in the public interest, particularly from the standpoint of economy and coordination of facilities. In this context it makes little difference whether the property transferred is jurisdictional or nonjurisdictional.

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[3] The Committee said: The Commission should have complete control over the acquisition of new securities and properties by holding companies and others in holding-company systems in the course of reorganizations and rearrangements of properties. New acquisitions should not be allowed unless the applicant can clearly demonstrate a resultant economy and efficiency from the connection of naturally related and interdependent properties. The Commission should have power to prevent acquisitions at prices which do not bear a proper relation to the capital prudently invested in the underlying utility properties, or if the acquisition would tend to create monopoly or restraint of trade in the exercise of control of public-utility companies. Sen. Report No. 621, 74th Cong., 1st Sess., p. 59.

[4] H. Hearings on H.R. 5423, 74th Cong., 1st Sess., pp. 2150–2151.

[5] *Ibid.*, p. 560.

[6] Hearings on S. 1725 before the Senate Committee on Interstate Commerce, 74th Cong., 1st Sess., p. 273.

[7] Senate Report No. 621, 74th Cong., 1st Sess., p. 50.

[8] House Report No. 1903, 74th Cong., 1st Sess., p. 74, 75.

Although in the present proceeding Duke has acquired only seven miles of distribution line and 418 service connections to be supplied from its system in the same way they had before the acquisition and although it is apparent that the effect on the interstate movement of power or on the financial stability of Duke will be inconsequential, these are not grounds for holding that we do not have jurisdiction over the acquisition of distribution facilities. We may presume, as past history shows to be the case, that most such transactions "will be consistent with the public interest", and often very beneficial.

We are aware, of course, that Section 203 does not grant us authority over all transactions that could affect the interstate flow of power, the coordination of interstate facilities or the financial stability of the participating parties. It does not cover the sale of distribution or generating facilities by a public utility but this possible limitation on the reach of the section[9] does not mean that the provision with respect to acquisitions should likewise be limited contrary to its purposes as shown by the legislative history. As noted in the *Pennsylvania Electric* case, 9 FPC at 95, Congress confined our jurisdiction with respect to dispositions, where its probable purpose was the preservation of the integration and coordination of jurisdictional facilities.

We are aware also that the Commission has changed its view of its jurisdiction several times in the past. At first it held it did have jurisdiction. *Portland General Electric Co.*, 1 FPC 709, 773 (1938, 1939); *Public Service Electric and Gas Co.*, 1 FPC 748 (1938). After some intermediate stages the Commission more recently has held that it had jurisdiction "to regulate the acquisition of electric facilities by a public utility irrespective of the legal status of the seller", which in this case was a municipality. One of the more definitive intermediate cases was *Pennsylvania Electric Co., supra.* In that case the Pennsylvania Electric Company acquired the facilities of three small electric utilities. After discussing the construction of Section 203, as referred to above, the Commission held that the acquisition of the local distribution facilities was subject to its jurisdiction in furtherance of the Congressional purpose of securing the integration and coordination of facilities and preventing corporate and financial abuses.

Duke argues that the interpretation followed in the *Pennsylvania Electric* case, would force us into a dilemma by requiring us to take jurisdiction of every acquisition of non-jurisdictional electric facilities by public utilities including every meter and every pole. While it may be that Section 203 would literally extend to such situations, this interpretation is not dependent on the nature of the facilities since the same argument could be made with respect to meters and poles which were associated with (and would remain associated with) jurisdictional facilities.

In the case of acquisitions we have by regulation (Section 33.1(2) quoted above) limited the necessity to file applications pursuant to Section 203 to mergers or consolidations with facilities of another person having a value in excess of $50,000. Although the statute does not impose a $50,000 limitation for acquisition for facilities as it does for disposition, there is no reason why we cannot impose such a limitation by regulation. Section 309 of the Act provides that the Commission shall have power to issue regulations "as it may find necessary or appropriate to carry out the provisions of this Act."

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[9] It should be noted that any purchase of the distribution or generating facilities of one public utility by another would under the present interpretation be covered by the second clause of Section 203(a), thus making possible the rejection of any uneconomic acquisition. It is true that sales of distribution facilities to a person exempted under Section 201(f) would not be covered, but Congress may have felt that there were other adequate controls over uneconomic purchases by such entities.

Duke makes the broader contention that if our Section 33.1(2) of our Regulations were upheld it would open a vast new field of Federal regulation and would severely impose upon the rights of the states to regulate public utility matters. We think both fears are unfounded. As indicated, *supra*, the position of the Commission for most of the period since the enactment of Section 203, including significantly, the period directly following[10] enactment was that we had jurisdiction over the acquisition of non-jurisdictional facilities. At no time during these several periods in which we asserted jurisdiction have the proceedings on mergers been numerous, usually not more than a dozen or two a year, and only rarely have they involved contested issues or a hearing. With respect to mergers this Commission does not displace state commission jurisdiction. Unlike our jurisdiction over sales at wholesale in interstate commerce, which is exclusive, state approval of a given transaction is often required by state law as well as our approval. This is part of the accommodation of State and Federal interests provided for in the Federal Power Act.

Duke further argues that through our authority over accounts we have an adequate means of discharging our regulatory responsibilities without the use of Section 203. Duke refers to the provisions of our Uniform System of Accounts with respect to recording acquisitions and the filing of proposed journal entries.[11] It seems plain that while our accounting authority is a very important part of our regulatory authority over public utilities, there are other interests to be served in approving a merger as discussed above such as the preservation of the financial standing of the acquiring company and the physical coordination of facilities. Thus an improvident acquisition might cause financial damage to the acquiring company or impair its ability to integrate and coordinate its facilities with the acquired facilities or with those of another company to the detriment of its ability to serve the public. Accounting authority is applicable only after the fact, to record what has taken place, but Section 203 is available before the event to prevent transactions or to modify transactions that otherwise might not conform to the purpose of Congress in enacting the Section.

Finally, Duke argues that the facilities in this case are not subject to our jurisdiction because Clemson University is exempt from our jurisdiction under Section 201(f) of the Power Act providing as follows:

> (f) No provision in this Part shall apply to, or be deemed to include, the United States, a State or any political subdivision of a State, or any agency, authority, or instrumentality of any one or more of the foregoing, or any corporation which is wholly owned, directly or indirectly, by any one or more of the foregoing, or any officer, agent, or employee of any of the foregoing acting as such in the course of his official duty, unless such provision makes specific reference thereto. [49 Stat. 847; 16 U.S.C. 824]

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[10] Substantially contemporaneous administrative construction is relevant as to the meaning of a statute. *United States* v. *American Trucking Ass'ns, Inc.*, 310 U.S. 534, 549. *Fawcus Machine Co.* v. *United States*, 282 U.S. 375, 378. *White* v. *Winchester Country Club*, 315 U.S. 32, 41. *Whitcomb Hotel* v. *California Employment Com'n*, 24 Cal (2d) 753, 151 P (2d) 233, 235. *United States* v. *Harrison and Grimshaw Construction Co.*, 305 F. 2d 363, 368 (CA10), certiorari denied, 371 U.S. 920.

[11] It further argues that if accounting requirements are included in an order approving a merger the utility will be, in effect, denied a hearing because contractual time limitations will require it to accept the accounting requirements imposed by our staff. The parties are specifically granted opportunity for a hearing, and whether this might prevent consummation of the transaction is a matter for negotiation between them. It would, of course, be possible in appropriate circumstances for the Commission where the merger was clearly desirable and there was a time limit involved to approve the merger and defer to separate proceedings a determination of the proper accounting.

Duke's argument misses the point. The question is not whether Clemson needs authority to sell, but whether Duke, an admitted public utility, needs authority to acquire. We may note that Duke does not argue that Clemson is not a "person" within the meaning of Section 203, nor could it in the light of *United States* v. *Public Utilities Commission of California*, 345 U.S. 295, 312, holding that the exclusion of a "municipality" from the term "person" would be completely at variance with the purpose of the statute. Clearly, for the purposes of Section 203 it could make little difference whether the facilities to be acquired are non-jurisdictional facilities because they are distribution facilities or because they are owned by an instrumentality of the state.

In conclusion, it is our opinion that Section 203 grants us jurisdiction over the acquisition by a "public utility" of any electric facilities even though they be entirely distribution facilities and even though they are owned and operated by an entity, such as Clemson University, which is not itself subject to our jurisdiction.

The Commission further finds:

(1) Duke, a corporation, is a public utility within the meaning of Section 203 of the Federal Power Act subject to the jurisdiction of the Commission as described and set forth in the Commission's order issued August 1, 1962, *Duke Power Company*, Docket No. E-7041 (28 FPC 255).

(2) Clemson is a person within the meaning of Section 203 of the Act and, until their transfer to Duke, owned and operated electric distribution facilities of a value more than $50,000.

(3) By acquiring the facilities of Clemson referred to in (2) above Duke merged or consolidated its facilities with those of another person without having secured an order of the Commission authorizing it to do so as required by Section 203 of the Federal Power Act and Section 33.1 of our Regulations.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

EL PASO NATURAL GAS COMPANY, DOCKET NO. CP66-6

ORDER FURTHER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 9, 1966)

On June 13, 1966, El Paso Natural Gas Company (Petitioner), filed in Docket No. CP66-6 a petition to amend the order issued in said docket on September 24, 1965, 34 FPC 965, and amended on January 24, 1966, and May 31, 1966, 35 FPC 134, 836, requesting the deletion of certain conditions as set forth in the initial order and amendment thereto, all as more fully set forth in the petition to amend.

By the order issued in the instant docket on September 24, 1965, as amended, Petitioner was authorized, *inter alia*, to sell and deliver natural gas to The Washington Water Power Company (Water Power) for resale and distribution in the community of Wallace, Idaho, and to Intermountain Gas Company (Intermountain) for resale and distribution in the communities of Ketchum and Iona, Idaho, and their respective environs.

Petitioner states that it is advised that Water Power and Intermountain have been granted franchises for the aforesaid communities in conformity with the condition set forth in ordering paragraph (D) of the subject order. Petitioner requests that the volumetric condition set forth in amending order paragraph (A) of the order issued on May 31, 1966 and the franchise condition in ordering paragraph (D) of the order issued September 24, 1965, be deleted.

The natural gas proposed to be sold and delivered to Intermountain for resale and distribution in Iona, Idaho, is to be utilized for residential and commercial purposes and to its knowledge no industrial consumption is involved. Petitioner further states that in view of this situation it believes that a volumetric condition in this instance is inappropriate and, in all probability, was not intended. Accordingly, Petitioner requests that the Commission delete said volumetric condition.

Due notice of the filing of the application to amend and opportunity for hearing thereon has been given by publication in the Federal Register on June 30, 1966 (31 F.R. 9031). No petition to intervene, notice of intervention, or protest to the granting of the application has been filed.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's orders issued September 24, 1965, and May 31, 1966 in Docket No. CP66-6 be amended as hereinafter ordered.

The Commission orders:

(A) The Commission's order issued May 31, 1966, amending the Commission's order issued September 24, 1965, in Docket No. CP66-6 is amended so as to delete therefrom the volumetric condition contained in paragraph (A) thereof; and the Commission's order issued September 24, 1965, is amended so as to delete therefrom the condition contained in paragraph (D) thereof requiring franchises by Water Power and Intermountain.

(B) In all other respects said order shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

MICHIGAN WISCONSIN PIPE LINE COMPANY, DOCKET NO. G-669

FINDINGS AND ORDER FURTHER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 9, 1966)

On May 30, 1966, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) filed in Docket No. G-669, as supplemented on June 30, 1966, a motion to amend further the Commission's order issued November 30, 1946, 5 FPC 953, in said docket, as amended, by authorizing the construction, relocation and operation of certain natural gas facilities in Wisconsin, all as more fully set forth in the motion to amend in this proceeding.

The order of November 30, 1946, authorized, among other things, the construction and operation of 3.9 miles of 8-inch transmission line extending from the take-off point of Michigan Wisconsin's de Pere lateral to Green Bay for the delivery and sale of natural gas to Wisconsin Public Service Corporation for distribution and resale in Green Bay.

Michigan Wisconsin states that due to population growth the pipeline is now located in a residential area which is relatively densely populated and that municipal officials have urged the relocation of such line. Further, Michigan

Wisconsin states that the 8-inch line does not have sufficient capacity to meet the estimated 1966–67 peak hour requirements and, that, because of the population density, looping of the existing line is not feasible. Therefore, Michigan Wisconsin proposes to install and operate a new meter station and 2.9 miles of 16-inch pipeline to substitute for the existing 3.9 miles of 8-inch line.

The estimated cost of construction of the proposed facilities is $286,490, which cost will be financed from funds on hand. The 3.9 miles of 8-inch line and the existing meter station will be removed and salvaged.

Due notice of the filing of the motion to amend and opportunity for hearing thereon has been given by publication in the Federal Register on June 9, 1966 (31 F.R. 8144). No protest or petition to intervene has been filed in this proceeding.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's order issued November 30, 1946, in Docket No. G–669, as amended, be further amended as hereinafter ordered.

The Commission orders:

(A) The Commission's order issued November 30, 1946, in Docket No. G–669, as amended, is further amended by authorizing Michigan Wisconsin to construct, relocate and operate the subject facilities, all as hereinbefore described and as set forth in the motion to amend in this proceeding.

(B) The authorization granted in paragraph (A) above shall be without force and effect unless the fees prescribed by Section 159.2(b) and Section 159.2(d), if any, of the Regulations under the Natural Gas Act have been paid in accordance with the requirements thereof.

(C) In all other respects said order, as amended, shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

MONTANA-DAKOTA UTILITIES CO., DOCKET NO. CP66–404

FINDINGS AND ORDER AFTER STATUTORY HEARING, PERMITTING AND APPROVING ABANDONMENT AND ACCEPTING FOR FILING NOTICE OF CANCELLATION OF SERVICE AGREEMENT

(Issued August 9, 1966)

On June 7, 1966, Montana-Dakota Utilities Co. (Applicant), filed in Docket No. CP66–404 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain natural gas facilities and service, all as more fully set forth in the application.

Applicant proposes to abandon the following service and facilities:

(1) the sale of gas for resale to Ernest R. Jensen, d/b/a, Byron Gas Service, serving the community of Byron, Wyoming, and environs under Rate Schedule G–1, FPC Gas Tariff Original Volume No. 4, and

(2) the sales and metering facilities serving said Ernest R. Jensen, d/b/a and located in the N½, S33, T56N, R97W, Big Horn County, Wyoming.

Applicant states that Ernest R. Jensen, d/b/a, Byron Gas Service has secured a local supply of gas adequate to meet his needs at a lesser rate than that charged by Applicant and does not desire further service from Applicant. Applicant states that the proposed abandonment of service will not have any adverse effect on Applicant's remaining customers by reason of the loss of revenue.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on August 4, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, Montana-Dakota Utilities Co., a Delaware corporation having its principal place of business in Minneapolis, Minnesota, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order issued April 16, 1943, in Docket No. G-282 (3 FPC 968).

(2) The facilities proposed to be abandoned, as hereinbefore described and as more fully described in the application herein, are used in the transportation and sale of natural gas in interstate commerce subject to the jurisdiction of the Commission, and such abandonment is subject to the requirements of Subsection (b) of Section 7 of the Natural Gas Act.

(3) The proposed abandonment of the aforesaid facilities and service is permitted by the public convenience and necessity and approval thereof should be granted as hereinafter ordered.

(4) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Notice of Cancellation of Applicant's contract dated April 4, 1966, with Ernest R. Jensen relating to service under the Applicant's Gas Tariff (Sheet Nos. 4 and 21) be accepted for filing effective on the date of this order.

The Commission orders:

(A) Permission for and approval of the abandonment of the facilities and service hereinbefore described, as more fully described in the application in this proceeding, are granted to Applicant, Montana-Dakota Utilities Co.

(B) Applicant shall advise the Commission of the date of abandonment of the facilities and service as authorized in paragraph (A) above within ten days of such abandonment.

(C) Notice of cancellation of Applicant's Service Agreement with Ernest R. Jensen dated April 4, 1966, is accepted for filing effective on the date of this order.

(D) Applicant shall file Revised Sheet Nos. 4 and 21 to its FPC Gas Tariff Original Volume No. 4 showing elimination of Ernest R. Jensen as a customer.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

NORTHERN NATURAL GAS COMPANY, DOCKET NO. CP65-196

ORDER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 9, 1966)

On June 16, 1966, Northern Natural Gas Company (Petitioner) filed in Docket No. CP65-196 a petition to amend the order issued in Docket No.

CP65–196 on May 25, 1966 (Opinion No. 491, 35 FPC 790) in which Petitioner was authorized to construct and operate certain natural gas facilities to initiate natural gas service to 131 communities in Iowa, Minnesota, Nebraska and Wisconsin. Petitioner requests herein authority to revise the mainline facilities authorized therein, all as more fully set forth in the petition to amend.

Prior to Commission authorization to provide initial gas service to these 131 communities, Petitioner filed an application in Docket No. CP66–206 to provide increased gas requirements of its present customers during the 1966–67 heating season. Since both projects were scheduled for construction in 1966, Petitioner states it would be possible to realize economies in construction by using larger compression units and larger diameter looplines. To take advantage of such economies, Petitioner designed the mainline facilities in Docket No. CP66–206 with sufficient capacity for the requirements in both dockets.

The Commission order issued in Docket No. CP66–206 required Northern to file to amend any order issued in Docket No. CP65–196 to reflect the appropriate facilities changes.

Listed below is a summary of the facilities which Northern proposes to delete and those it proposes to construct:

Certificated (to be deleted) Docket No. CP65–196	*Proposed facilities*
11.0 miles 30-inch at Ogden	9.1 miles 30-inch at Clifton
7.6 miles 30-inch at Mullinville	7.5 miles 36-inch at Mullinville
2,000 H.P. at Ogden	3,165 H.P. at Ventura
4,000 H.P. at Beatrice	

The cost of the proposed revised facilities is estimated to be $2,949,200, as compared to a cost of $3,567,700, excluding interest and overheads, estimated for the facilities for which Petitioner now seeks to delete from the subject order.

Due notice of the filing of the petition to amend and opportunity for hearing has been given by publication in the Federal Register on June 30, 1966 (31 F.R. 9032). No protest or petition to intervene has been filed in this proceeding concerning this amendment.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act, and the public convenience and necessity require that the Commission's order issued May 25, 1966, in Docket No. CP65–196 granting Northern certain certificate authorizations, be amended as hereinafter ordered.

The Commission orders:

(A) The Commission's order issued May 25, 1966, in Docket No. CP65–196 is amended so as to (1) delete therefrom authorization to construct and operate 11 miles of 30-inch at Ogden, 7.6 miles of 30-inch at Mullinville, 2,000 H.P. at Ogden and 4,000 H.P. at Beatrice, and, (2) to authorize Applicant to construct, install and operate 9.1 miles of 30-inch at Clifton, 7.5 miles of 36-inch at Mullinville and 3,165 H.P. at Ventura, all as hereinbefore described and as set forth in the subject petition to amend.

(B) In all other respects said order shall remain in full force and effect.

(C) The amendment authorized by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with applicable Commission Regulations under the Natural Gas Act and particularly the conditions set forth in paragraphs (b) and (f) of Section 157.20 of such Regulations.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

PANHANDLE EASTERN PIPE LINE COMPANY, DOCKET NO. CP66-359

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 9, 1966)

On May 9, 1966, Panhandle Eastern Pipe Line Company (Applicant) filed in Docket No. CP66-359 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities and the sale and delivery of natural gas to Northern Illinois Gas Company (Northern Illinois) for resale to municipalities and communities located in Pike, Adams, Hancock, and Henderson Counties, Illinois, all as more fully set forth in the application in this proceeding.

Specifically, Applicant proposed to construct and operate measuring and regulating facilities and a mainline tap near its Pleasant Hill Compressor Station in Pike County. Applicant and Northern Illinois have entered into a gas sales contract, dated April 15, 1966, whereby Applicant agrees to sell and Northern Illinois agrees to purchase certain volumes of gas under applicant's proposed FPC Gas Rate Schedule LS-2.

Northern Illinois' estimated third year peak day and annual requirements to be purchased from Applicant are 500 Mcf and 170,000 Mcf, respectively.

The total estimated cost of the proposed facilities is $38,000, which cost will be financed from funds on hand.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on August 4, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Panhandle Eastern Pipe Line Company, a Delaware corporation having its principal place of business in Kansas City, Missouri, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of September 23, 1942, in Docket Nos. G-200 and G-207 (3 FPC 273).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are proposed to be used in the transportation and sale of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof and the proposed transportation and sale of natural gas by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities and the proposed transportation and sale of natural gas by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate hereinafter issued and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of said Regulations.

(6) In accordance with the Commission's Regulations under the Natural Gas Act, Applicant should make an appropriate rate filing covering the natural gas service hereinafter authorized.

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Applicant, Panhandle Eastern Pipe Line Company, to construct and operate the proposed facilities and to sell and deliver natural gas as hereinbefore described, all as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be constructed and placed in actual operation and the sale and delivery of natural gas authorized in paragraph (A) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within 12 months from the date on which this order issues.

(D) In accordance with the Commission's Regulations under the Natural Gas Act, Applicant shall make an appropriate rate filing covering the natural gas service authorized in paragraph (A) above.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

POWER AUTHORITY OF THE STATE OF NEW YORK, PROJECT NO. 2000

ORDER AUTHORIZING SALE OF PARCELS OF PROJECT LANDS

(Issued August 9, 1966)

On March 16, 1966, Power Authority of the State of New York, licensee for Project No. 2000, located on the St. Lawrence River, State of New York, filed a request for Commission authorization to sell twelve parcels of lands within the project boundary, totaling approximately 720 acres, which had been acquired by the licensee during construction of the project for excavation, borrow and other construction purposes. Permission was also requested to delay the filing of revised Exhibit K drawings showing the lands until consummation of the sale and completion of detailed surveys for the lands. The parcels involved are located in Lisbon, Waddington, Louisville and Massena Townships, St. Lawrence County, New York.

The lands are not required for recreational development in connection with the project, and are not required for other project purposes. The Conservation Department, Thousand Islands State Park Commission, has advised that it is not interested in developing any of the parcels for park purposes.

The Commission finds:

It is not inconsistent with the public interest to authorize the sale of the project lands herein involved as hereinafter provided.

The Commission orders:

Power Authority of the State of New York is hereby authorized to effect the sale of the parcels of Project No. 2000 lands herein involved: *Provided, however,* That the licensee incorporate in any agreement or instrument affecting such disposal a covenant or condition insuring that the use of such lands will not endanger health, create a nuisance, or otherwise be incompatible with overall project recreational use in accordance with paragraph (C) of the Commission's Order No. 313, issued December 27, 1965, 34 FPC 1546: *Provided, further,* That the licensee file, within two years from the date of issuance of this order, for Commission approval, revised Exhibit K drawings accurately describing the revised project boundary.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

TEXAS GAS TRANSMISSION CORPORATION, DOCKET NO. CP66-332

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 9, 1966)

On April 21, 1966, Texas Gas Transmission Corporation (Applicant), filed in Docket No. CP66-332 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities in Henderson County, Kentucky, and the sale of natural gas, as more fully set forth in the application.

Applicant seeks authority to construct and operate one two-inch side valve and a meter station near Anthoston, Kentucky, for the establishment of a new delivery point for Western Kentucky Gas Company (Western), an existing customer of Applicant. The natural gas to be delivered through the proposed delivery point is for resale by Western to the Community of Anthoston, Henderson County, Kentucky. Annual and peak day deliveries associated with the service to Anthoston are estimated to be 8,233 and 102 Mcf of gas respectively at 15.025 psia. No increase in the Contract Demand of Western is proposed for this service.

The total estimated cost of Applicant's proposed facilities is $5,700, which will be financed from cash on hand.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application, has been filed.

At a hearing held on August 4, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorizations sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, Texas Gas Transmission Corporation, a Delaware corporation having its principal place of business in Owensboro, Kentucky, is a

"natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of March 30, 1948, in Docket No. G-855 (7 FPC 213).

(2) The proposed construction and operation of facilities, and the sale of natural gas in interstate commerce, as hereinbefore described and as more fully described in the application, filed in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed construction and operation of facilities, and the sale of natural gas in interstate commerce are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4) and (e) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, Texas Gas Transmission Corporation, authorizing the construction and operation of facilities, and the sale of natural gas as hereinbefore described, all as more fully described in the application, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4) and (e) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be completed and placed in actual operation, and the sale of natural gas authorized in paragraph (A) above shall commence as provided in paragraph (b) of Section 157.20 of the aforesaid Regulations within 3 months of the date on which this order issues.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

WISCONSIN PUBLIC SERVICE CORPORATION, PROJECT NO. 2476

ORDER ISSUING LICENSE (MINOR)

(Issued August 9, 1966)

Application was filed on June 19, 1964, by Wisconsin Public Service Corporation (Applicant) of Milwaukee, Wisconsin, for a license under the Federal Power Act (Act) for constructed minor Project No. 2476, known as Jersey Hydroelectric Station, located on the Tomahawk River, a headwater tributary of the Wisconsin River, in the City of Tomahawk, in Lincoln County, Wisconsin. No lands of the United States are affected by the project.

According to the application, a project was constructed in 1888 and completely rebuilt in 1929 at this site.

The Secretary of the Army and the Chief of Engineers have reported that the plans of the project structures affecting navigation are satisfactory insofar as the interest of navigation is concerned.

The Department of the Interior, in reporting on the application, has advised that the project, as presently operated, does not affect adversely the fish and wildlife resources of the area and no fishways or other specific measures are requested at this time. However, the Department recommended that any license for the project be made subject to terms and conditions in the interests of fish and wildlife and free public access to project lands and waters, which we include in attached Form L-12.

The Department of Health, Education, and Welfare has reported that the project will not affect adversely water supply, water pollution control, or vector control, and no special conditions were recommended for inclusion in any license for the project.

The Conservation Department of the State of Wisconsin has advised that past operation of the project has been satisfactory from the fishery standpoint and no changes in operating procedures were recommended. However, the Department recommended that public landing sites be developed at the project as required by Article 4 of attached Form L-12 and special Article 12 herein.

Electrically, Applicant's Jersey Hydroelectric Station connects with Applicant's 46 kv system at the 2,000 kw Tomahawk plant, Wisconsin, licensed as Project No. 1940. The latter plant connects with Applicant's 115 kv and 138 kv interconnected transmission system which transfers substantial amounts of energy over Applicant's 69 kv circuit between Applicant's Marinette substation in Wisconsin and Applicant's Menominee substation in Michigan, via the Pound substation. The energy from these substations flows either way depending upon system needs. Applicant's interconnected transmission system also is directly connected with Wisconsin Michigan Power Company's system which, according to information furnished the Commission by the latter company, shows large transmissions of electric energy across the Wisconsin-Michigan state lines.

The license herein granted shall have an effective date of May 1, 1965, the first day of the month in which the Supreme Court of the United States affirmed the Commission's findings and order asserting licensing authority over Taum Sauk Project No. 2277 by virtue of the effect of the hydroelectric project on the interests of interstate commerce by its utilization of headwaters of a navigable stream to generate electric energy for an interstate power system (381 U.S. 90), and a termination date of December 31, 1993.

In our order on rehearing issued February 17, 1965, in *Wisconsin Power & Light Company, Project No. 2347, et al.* (33 FPC 275) we stated that we would have no objection to the issuance of licenses for minor projects without waiving Sections 14 and 15 of the Federal Power Act and the other provisions of the Act necessary to the effectuation of those sections, provided the minor project applications are timely supplemented pursuant to Section 4.50 of our Regulations under the Act (18 CFR § 4.50), which related to applications for major projects. In the event the Applicant herein wishes a license in which those provisions of the Act are not waived it should so advise us within 30 days from the date of issuance of this order and file its supplemental application within 30 additional days thereafter.

The Commission finds:

(1) Jersey Hydroelectric Station, Project No. 2476 affects the interests of interstate commerce.

(2) Applicant is a corporation organized under the laws of the State of Wisconsin, and has submitted satisfactory evidence of compliance with the requirements of all applicable State laws insofar as necessary to effectuate the purposes of a license for the project.

(3) Public notice of the filing of the application has been given. No protests or petitions to intervene have been received. No conflicting application is before the Commission.

(4) The project does not affect a Government dam, nor will the issuance of a license therefor, as hereinafter provided, affect the development of any water resources for public purposes which should be undertaken by the United States.

(5) Subject to the terms and conditions hereinafter imposed, the project will be best adapted to a comprehensive plan for improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, for the improvement and utilization of water-power development, and for other beneficial public uses, including recreational purposes.

(6) The installed horsepower capacity of the project hereinafter authorized for the purpose of computing the capacity component of the administrative annual charge is 680 horsepower, and the amount of annual charges, based on such capacity, to be paid under the license for the project, for the costs of administration of Part I of the Act is reasonable as hereinafter fixed and specified.

(7) It will be in the public interest to waive pursuant to Section 10(i) of the Act, the terms and conditions contained in the following sections of Part I of the Act:

Sections 4(b), except the second sentence thereof; 4(e) insofar as it relates to approval of plans by the Chief of Engineers and the Secretary of the Army and to public notice; 6, insofar as it relates to public notice and to the acceptance and expression in the license of terms and conditions of the Act which are hereinafter waived; 10(c), insofar as it relates to depreciation reserves; 10(d), 10(f); 11; 12; 14; except insofar as the power of condemnation is reserved; 15, 19; 20; 22; and 23(a), insofar as it relates to the determination of fair value.

The Commission orders:

(A) This license is hereby issued to Wisconsin Public Service Corporation (Licensee) of Milwaukee, Wisconsin, under Sections 4(e) and 10(i) of the Act, for a period effective as of May 1, 1965, and terminating December 31, 1993, for the continued operation and maintenance of Project No. 2476, located on Tomahawk River, Wisconsin, and affecting the interests of interstate commerce, subject to the terms and conditions of the Act, insofar as not expressly waived herein, which Act is incorporated by reference as a part of this license, and subject to such rules and regulations as the Commission has issued or prescribed under the provisions of the Act.

(B) Project No. 2476 consists of:

(i) all lands constituting the project area and enclosed by the project boundary or the limits of which are otherwise defined.

(ii) a dam (804 feet long and 15 feet high) composed of (a) a 62-foot concrete powerhouse section, (b) a 151-foot concrete sluice-way and tainter gate section, (c) two earth embankments 330 feet long and 261 feet long, respectively; (2) a 709-acre reservoir (surface elevation 1451.03 feet); (3) a concrete block powerhouse (62 feet long, 26 feet wide, and 16 feet high) containing three generating units with a total installed capacity of 512 KW and three water wheels with a total capacity of 692 horsepower; and

(iii) all other structures, fixtures, equipment or facilities used or useful in the operation and maintenance of the project and located on the project area; and all rights and interests therein, the possession of which is necessary in the maintenance and operation of the project.

(C) This license is also subject to the terms and conditions set forth in Form L-12 (May 1, 1966) entitled "Terms and Conditions of License for Constructed Minor Project Affecting the Interests of Interstate or Foreign Commerce" (35 FPC 875), which terms and conditions, designated as Articles 1 through 11, are attached hereto and made a part hereof, and subject to the following special conditions set forth herein as additional articles:

Article 12. The Licensee shall, within one year from the date of this license, file with the Commission for approval its proposed recreational use plan for the project. The plan shall conform to the requirements of 18 CFR 4.41, *Exhibit R* of the Commission's regulations under the Act, and shall include plans, following consultation with the Wisconsin Conservation Department, for reasonable flow releases at all times downstream from the dam and for public landing sites.

Article 13. The Licensee shall pay to the United States the following annual charge effective as of May 1, 1965:

For the purpose of reimbursing the United States for the costs of administration of Part I of the Act, an annual charge of $34.00.

(D) The terms and conditions of the Act which it has been found above to be in the public interest to waive, are hereby excluded from this license.

(E) This order shall become final 30 days from the date of its issuance unless application for rehearing shall be filed as provided in Section 313(a) of the Act, and failure to file such an application shall constitute acceptance of this license. In acknowledgment of the acceptance of this license, it shall be signed for the licensee and returned to the Commission within 60 days from the date of issuance of this order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

MISSISSIPPI RIVER TRANSMISSION CORPORATION, DOCKET NO. CP66-130

ORDER AMENDING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 10, 1966)

On July 20, 1966, Mississippi River Transmission Corporation (Petitioner) filed in Docket No. CP66-130 a petition to amend the order of the Commission issued in said docket on June 6, 1966, 35 FPC 892, which order authorized the construction and operation of certain natural gas facilities and the acquisition and operation of the facilities of Storage Corporation, a wholly-owned subsidiary, including interests in and related to the St. Jacob Storage Field, Madison and St. Clair Counties, Illinois, all as more fully set forth in the petition to amend.

Paragraph (H) of the subject order states that, "No part of the acquisition cost of the St. Jacob Storage Field is to be included in any future rate base calculation until a final determination is made regarding the success or failure of the project."

Petitioner submits that the above condition may preclude it from advancing its theory of proper ratemaking treatment of its investment in the event subsequent development proves the project area or a part thereof not to be suitable for storage.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the certificate of public convenience and necessity issued in Docket No. CP66–130 on June 6, 1966, be amended as hereinafter ordered.

The Commission orders:

(A) The certificate of public convenience and necessity issued to Mississippi River Transmission Corporation in Docket No. CP66–130 on June 6, 1966, is amended by deleting therefrom the language contained in paragraph (H) and substituting therefor the following language: "Nothing contained herein shall be deemed to constitute a determination of the treatment to be accorded in any future rate proceeding to the costs incurred prior to July 1, 1965, in connection with the St. Jacobs Storage Field."

(B) In all other respects said certificate shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

PANHANDLE EASTERN PIPE LINE COMPANY, DOCKET NO. CP66–50

ORDER ISSUING TEMPORARY CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 10, 1966)*

On August 13, 1965, Panhandle Eastern Pipe Line Company (Applicant) filed an application to construct 14.1 miles of 8-inch loop line and 1.25 miles of 4-inch pipe to deliver up to 3,000 Mcf per day on an interruptible basis to a refractory products plant to be built by H. K. Porter Co., Inc. at Fulton, Missouri. The City of Fulton was subsequently allowed to intervene and filed an application under Section 7(a) of the Natural Gas Act seeking gas from Panhandle to serve Porter from the City's municipal distribution system. A formal hearing has been held in this matter and an initial decision was issued by the presiding examiner on June 21, 1966. Briefs are still to be filed before a final decision can be rendered by the Commission.

On June 30, 1966, Panhandle requested temporary authorization to construct a 1.25 mile 4-inch lateral pipeline and to transport natural gas to H. K. Porter Company's refractories plant at Fulton for a period terminating October 31, 1966.

The City of Fulton, Missouri, intervenor in this proceeding, replied in opposition to Panhandle's proposed construction on July 7, 1966, and, requested an order directing Panhandle to supply temporarily natural gas to the City for resale to the H. K. Porter Co., Inc. Porter, intervenor, responded on July 12, 1966, supporting Panhandle's application. On July 15, 1966, Panhandle replied in opposition to City's request.

Panhandle and Porter allege an urgent requirement for natural gas to initiate production of refractory products at the new plant. The City states that its existing distribution facilities are adequate to deliver gas to Porter's plant without construction of any new facilities, and that it is willing to transport Panhandle's direct sale gas to the Porter plant on a temporary basis. Panhandle alleges that it is capable of supplying and transporting the volumes of gas required by the plant. Therefore, the Commission will issue an order granting a temporary certificate to Panhandle to transport gas in interstate commerce for direct sale. Such gas is to be delivered into the facilities of the City of Fulton, Missouri for transportation to the Porter plant. Porter and the City should make temporary arrangements with respect to the transportation of the gas.

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*See order issued October 6, 1966 on reconsideration, 36 FPC 721.

The Commission finds that, under the circumstances of this proceeding and as alleged by the parties, an emergency exists as contemplated by Section 7 of the Natural Gas Act.

The Commission orders:

(A) A temporary certificate of public convenience and necessity is issued to Panhandle Eastern Pipe Line Company authorizing the transportation and delivery of up to 3,000 Mcf per day of natural gas for a direct sale to H. K. Porter Co., Inc.

(B) Panhandle shall deliver up to 3,000 Mcf per day of natural gas into the facilities of the City of Fulton, Missouri for transportation to the Porter plant.

(C) The application for temporary authority to construct and operate 1.25 miles of new pipeline facilities is denied.

(D) The temporary certificate issued herein shall remain in effect pending the final determination of the applications in this proceeding.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

UNION TEXAS PETROLEUM, ET AL., DOCKET NO. G-13221, ET AL.; GENERAL AMERICAN OIL COMPANY OF TEXAS, G-20123, ET AL.; U.S. OIL OF LOUISIANA, INC. (OPERATOR), ET AL., CI60-607, CI61-144; E. COCKRELL, JR. AND E. COCKRELL, JR. (OPERATOR), ET AL., CI63-326; FREEPORT OIL COMPANY (OPERATOR), ET AL., CI62-720; HASSIE HUNT TRUST, G-18897, G-19249; H. L. HUNT, ET AL., G-19460; HUNT OIL COMPANY, G-18596; PLACID OIL COMPANY, G-18021, ET AL.

ORDER DENYING APPLICATIONS AND MOTIONS FOR REHEARING, FOR RECONSIDERATION, FOR STAY, AND FOR ADDITIONAL EXTENSIONS OF TIME

(Issued August 11, 1966)

On July 5, 1966, 36 FPC 12, this Commission issued an order in this proceeding permitting certain producers of natural gas in southern Louisiana and offshore thereof to file briefs and statements of facts relevant to the question of whether they should be required to make refunds of excessive amounts collected while operating under temporary certificates without specific refund conditions. On application by Pan American Petroleum Corporation (Pan American) for rehearing, by order issued July 21, 1966, 36 FPC 147, we denied reconsideration but granted an extension of time to August 29, 1966, within which to file the briefs and statements. On July 22, 1966, an application was filed by General American Oil Company of Texas (General American) applying for the same relief as was refused Pan American, and adopting Pan American's statement in support of the applications for such relief. On the same day applications were filed by U.S. Oil of Louisiana, Inc. (U.S. Oil) and E. Cockrell, Jr., applying for rehearing or reconsideration of the order of July 5, 1966, on the same grounds stated in the prior application of Pan American. In the alternative U.S. Oil and Cockrell moved to stay the July 5 order pending the court's determination of a motion for stay of said order now before it. If the court should refuse a stay, U.S. Oil and Cockrell ask that (if reconsideration is not granted and their motions for stay are denied) the time for filing briefs and statements be extended to sixty days from the time of the court's denial of stay.

On July 25, 1966, Freeport Oil Company (Freeport) filed an application similar to those of U.S. Oil and Cockrell, and an application adopting that of Pan American was filed by Placid Oil Company, Margaret Hunt Hill, Trustee for Hassie Hunt Trust, H. L. Hunt and Hunt Oil Company (collectively referred to as Placid, *et al.*).

As was said in the order issued July 21, 1966, an application for rehearing of the order of July 5 will not lie. Treating these applications as motions for reconsideration, they must be denied. We adhere to our determination in the order of July 21, 1966, that the Commission had both jurisdiction and power to issue the order of July 5, 1966. We reject again the contention that the July 5 order constituted an abuse of discretion. We note that General American is one of the applicants here contending that the burden of preparing briefs and statements is too heavy to impose where it is possible that the labor may be wasted if the courts should overturn the 20-cent in-line price. General American filed such a statement and brief August 11, 1964, approximately three weeks after Opinion No. 436 and order issued July 23, 1964, 32 FPC 254, first provided for such filing. Our experience with numerous producers in other proceedings of this kind does not indicate the burden is as heavy as applicants here contend. This contention was also made by Pan American in its prior application. In the order of July 21, 1966, the Commission said (page 149):

> Nor are we convinced that the burden upon Pan American is so great as to justify delaying these proceedings until the in-line price has been passed upon by the Courts. In at least five similar proceedings involving numerous large and small producers, those filing briefs and statements have been able to do so within the time prescribed (in some cases much less), and it has in no way been indicated that the burden upon them was as excessive as Pan American would represent. No computation of refunds is required; no refunds are ordered; the only burden upon Pan American is the statement of the facts of its case and the presentation of a legal brief. We do not think this burden so great as to justify an administrative delay of many months.

We adhere to the views expressed in the order of July 21. Accordingly, reconsideration will be denied.

In our order of July 21 we granted an extension to August 29, 1966, not only to Pan American but to all producers in this proceeding. We think no adequate ground for stay or further extension has been shown. The motions for stay and requests for additional extension of time will be denied.

The Commission orders:

The applications of General American Oil Company of Texas and of Pacid Oil Company, *et al.*, for rehearing upon order issued July 5, 1966, and alternatively, for extension of time prescribed therein, and the applications of U.S. Oil of Louisiana, Inc., E. Cockrell, Jr. and Freeport Oil Company for rehearing or reconsideration of the July 5, 1966, order or, in the alternative, motion for stay, or, in the further alternative, request for extension of time, are in all respects denied, except insofar as extensions of time for filing briefs and statements have already been extended to August 29, 1966, by order of this Commission issued July 21, 1966.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

VILLAGE OF BLUFORD, ILLINOIS AND TRUNKLINE GAS COMPANY, DOCKET NO. CP66–350

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued August 12, 1966)

On May 2, 1966, the Village of Bluford, Jefferson County, Illinois (Applicant), filed in Docket No. CP66–350 an application and supplement thereto on July 13, 1966, pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Trunkline Gas Company (Respondent) to establish physical connection of its transportation facilities with the facilities proposed to be constructed by Applicant and to sell and deliver to Applicant volumes of natural gas for resale and distribution in Bluford and vicinity, Markham City and Keenes and along the proposed transmission line, all as more fully set forth in the application and supplement thereto.

Applicant proposes to interconnect a lateral pipeline with Respondent's pipeline near the point where said pipeline crosses Illinois State Highway No. 15 and from this point of connection to construct a 3-inch high pressure lateral extending westward along said highway a distance of approximately 5½-miles to the town border station to be located at the east side of Applicant. Applicant also proposes to construct a complete distribution system to serve all prospective customers in Bluford and vicinity, including the adjoining unincorporated area known as Markham City, and along the proposed transmission line, including the Village of Keenes.

The total estimated volumes of natural gas necessary to meet Applicant's annual and peak day requirements for the initial three year period of proposed operations are stated to be:

	First year	Second year	Third year
Annual (Mcf)	34,799	44,275	53,969
Peak day (Mcf)	399	538	678

The total estimated cost of Applicant's proposed transmission and distribution facilities is $290,000, which will be financed through the issuance of gas revenue bonds.

On June 2, 1966, Respondent filed an answer to the application which indicated Respondent had no objection to Applicant's request for a facilities connection and service up to 678 Mcf per day. Respondent requests that Applicant be required to receive service within 9 months of the date of this order.

Due notice of the filing of the subject application and opportunity for hearing thereon have been given by publication in the Federal Register May 18, 1966 (31 F.R. 7263). No protest, petition to intervene or requests for hearing has been filed in this proceeding.

The Commission finds:

(1) Trunkline Gas Company, a Delaware corporation having its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of April 29, 1949, in Docket No. G–882 (8 FPC 250).

(2) Applicant is legally authorized to engage in the local distribution of natural gas to the public within the meaning of Section 7(a) of the Natural Gas Act.

(3) It is necessary and desirable in the public interest to direct Respondent to establish physical connection of its transmission facilities with the facilities proposed to be constructed and operated by Applicant, and to sell and deliver to Applicant under a service agreement to be executed by Applicant with Respondent in accordance with the Commission's Regulations, up to 678 Mcf per day of natural gas for distribution and resale as hereinbefore described and as more fully described in the application in this proceeding.

(4) The requirement that Respondent serve Applicant as hereinafter ordered, will not impair Respondent's ability to render adequate service to its existing customers.

(5) Applicant should be prepared to receive natural gas from Respondent for distribution in the Villages of Bluford, Keenes, the area described as Markham City and environs, Illinois, and within nine months from the date of issuance of this order.

The Commission orders:

(A) Trunkline Gas Company is directed to establish physical connection of its facilities with the facilities proposed to be constructed and operated by Applicant, as herein described, and to sell up to 678 Mcf of natural gas daily to Applicant under a service agreement to be executed by Applicant with Trunkline in accordance with the Commission's Regulations, for distribution and resale as hereinbefore described and as more fully described in the application in the proceeding. Such service shall be rendered pursuant to Trunkline's presently filed appropriate rate schedule.

(B) Respondent shall report to the Commission in writing the date of commencement of service to Applicant within 10 days thereof.

(C) Applicant shall be prepared to receive service as directed herein within nine months from the date of issuance of this order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

CASCADE NATURAL GAS CORPORATION, DOCKET NO. CP66–371

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 12, 1966)

On May 16, 1966, Cascade Natural Gas Corporation (Applicant) filed in Docket No. CP66–371, as supplemented on August 5, 1966, an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction during the twelve-months period commencing on the day this order issues and operation of certain facilities necessary to attach new supplies of natural gas to enable Applicant to maintain authorized delivery obligations to its customer, Mountain

Fuel Supply Company, all as more fully set forth in the application in this proceeding.

The application, as originally filed, was a "budget-type" application under Section 157.7(b) of the Regulations under the Act. However, Applicant's supplement of August 5, 1966, sets forth specific facilities to be constructed under the requested authorization at a cost of $1,475,000 and indicates that certain other unspecified gas purchase facilities will be constructed at a cost of $325,000. In effect, the subject filing is an application combining a request for certificate authorization subject to the provisions of Section 157.14 of the Commission's Regulations as well as for a "budget-type" authorization under Section 157.7(b) of the Regulations. Accordingly, authorization for facilities to be constructed at an estimated cost of $1,475,000 will be considered as being subject to Section 157.14 of the Regulations and authorization for the facilities to be constructed at an estimated cost of $325,000, will be considered as being subject to Section 157.7(b) of the Regulations.

Specifically, Applicant proposes to construct and operate the following facilities:

Section 157.14 facilities.

(1) 12 miles of 4-inch line, dehydrators, valves and metering facilities, Conoco Wells, Elk Springs and Winter Valley Fields, Moffat County, Colorado;

(2) 9 miles of 4-inch line, valves and metering facilities, Chevron Wells, Mam Creek Field, Garfield County, Colorado;

(3) 5 miles of 3 and 4-inch line, valves and metering facilities, Sun Wells, Divide Creek Field, Garfield County, Colorado;

(4) 13 miles of 3, 4 and 6-inch line, dehydrators, valves and metering facilities, Conoco Wells, Dragon Trail Field, Rio Blanco County, Colorado;

(5) 340 compressor horsepower and appurtenant facilities, Dragon Trail Field, Rio Blanco County, Colorado, and

(6) 1320 compressor horsepower and appurtenant facilities, Rio Blanco County, Colorado.

Section 157.7(b) facilities.

Various unspecified "budget-type" field facilities.

The total estimated cost of all facilities proposed under the subject filing will be financed from funds on hand, cash generated from normal operations and internal sources.

With respect to the Section 157.7(b) facilities, Applicant requests waiver of the cost limitations imposed by Section 157.7(b)(1) of the Regulations. Such waiver will enable Applicant to attach new supplies of gas without delays resulting from the processing of individual certificate applications.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on August 11, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, supplement and exhibits, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Cascade Natural Gas Corporation, a Washington corporation having its principal place of business in Seattle, Washington, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission.

(2) The facilities hereinbefore described, as more fully described in the application, as supplemented, in this proceeding, are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof

by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) With respect to the proposed facilities subject to Section 157.7(b) of the Commission's Regulations, it is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Applicant should submit within 60 days after the expiration of the authorization granted hereinafter, a statement in compliance with Section 157.7(b)(3) of the aforesaid Regulations.

(6) Public convenience and necessity require that the certificate hereinafter issued and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e) and (f), and, with respect to the proposed facilities subject to Section 157.14 of the Regulations, paragraphs (c)(1), (c)(3) and (c)(4) of Section 157.20 of said Regulations.

(7) The authorization hereinafter granted should be limited to construction during the twelve-months period commencing with the date on which this order issues and the total expenditures for facilities subject to Section 157.7(b) of the Regulations should be limited to a maximum of $325,000, with no single project to exceed a cost of 25 per cent of said maximum amount.

(8) Good cause has been shown for waiver of the cost limitations imposed by Section 157.7(b)(1) of the Commission's Regulations under the Natural Gas Act.

The Commission orders:

(A) Upon the terms and conditions of this order, a certificate of public convenience and necessity is issued authorizing Applicant, Cascade Natural Gas Corporation, to construct and operate the proposed facilities hereinbefore described, all as more fully described in the application, as supplemented, in this proceeding. Any natural gas supplies attached as a result of this authorization shall be taken only from producers who have received authorization from the Commission to sell natural gas to said Applicant.

(B) With respect to the facilities subject to Section 157.7(b) of the Commission's Regulations, Applicant shall submit within 60 days after the expiration of the authorization granted by paragraph (A) above a statement in compliance with Section 157.7(b)(3) of the Commission's Regulations under the Natural Gas Act.

(C) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e) and (f), and, with respect to the proposed facilities subject to Section 157.14 of the Regulations, paragraphs (c)(1), (c)(3) and (c)(4) of Section 157.20 of said Regulations.

(D) The authorization granted in paragraph (A) above is limited to construction during the twelve-months period commencing with the date on which this order issues and the total expenditures for facilities subject to Section 157.7(b) of the Regulations are limited to a maximum of $325,000, with no single project to exceed a cost of 25 per cent of said maximum amount.

(E) Applicant's request for waiver of the cost limitations imposed by Section 157.7(b)(1) of the Commission's Regulations is granted.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

THE DETROIT EDISON COMPANY AND CONSUMERS POWER COMPANY, DOCKET NO. E-7234

ORDER AMENDING PRIOR ORDER OF INVESTIGATION AND HEARING

(Issued August 12, 1966)

Subsequent to the initiation of this proceeding Commission staff requested an enlargement of the issues, a deferral of further hearings pending staff investigation of the operations, books and records of Respondent companies, The Detroit Edison Company (Detroit), and Consumers Power Company (Consumers), and a revision of procedural rulings covering service of testimony and cross-examination of various witnesses. This order grants staff's requests.

This proceeding was instituted by order of investigation and hearing issued July 20, 1965, 34 FPC 83. Among other things, that order directed a public hearing to find and determine whether Respondents are each a "public utility" within the meaning and subject as such to the regulatory requirements of the Federal Power Act. To date, a number of hearing sessions have been held. By ruling of June 20, 1966, the Presiding Examiner, Martin E. Rendelman, fixed the time for service of prepared testimony of Respondent companies' witnesses, of staff's witnesses and cross-examination of all witnesses, at various times commencing August 12, 1966 and continuing through October 24, 1966.

Staff's requests are embodied in a Motion To The Commission For Enlargement of Proceeding filed July 29, 1966. By joint Answer of Respondents filed August 8, 1966, Detroit and Consumers support the staff and urge that staff's motion be granted. Intervenor, Michigan Public Service Commission, by answer filed August 10, 1966, states that it has no objection to staff's motion. No other parties appear of record.

In substance, staff seeks to include among the issues to be resolved in this proceeding all questions concerning this Commission's regulatory jurisdiction pursuant to the Federal Power Act over the wholesale electric sales, services, rates, charges, classification, rules, regulations, contracts and practices of Respondents. Staff advises that in the course of the hearing as now scheduled, questions have arisen as to the scope of the proceeding fixed by the Commission's July 20, 1965 order. Respondent companies dispute the inclusion of any wholesale rate and service jurisdictional questions as a part of this proceeding as fixed by that order.

Paragraph A of this order lists wholesale for resale electric transactions of Edison and Consumers, respectively. Neither Company has submitted any rate schedules for wholesale electric service. Whether they are obligated to do so are matters which should be resolved. Pursuant to Sections 201, 205 and 206 of the Federal Power Act we herein amend our earlier order as requested by staff and Respondents to include those questions within the procedural scope of this proceeding.

Additionally, this order defers further hearings in this matter to accommodate investigations and conferences among the parties. Staff's motion advises that discussions among respective counsel for the parties show "* * * Respondents are prepared to cooperate immediately with staff during the pendency of this proceeding in a review and investigation of the Companies' operations in the light of this Commission's substantive regulatory requirements. If, by reason of this proceeding, Respondents are determined to be subject to the Commission's regulatory jurisdiction, full compliance with the Commission's substantive regulatory requirements would be accomplished as of or shortly after the termination date of this matter. * * *"

Other representations contained in staff's motion reveal that all jurisdictional questions affecting Respondents, arising as a consequence of this proceeding, may be resolved upon the basis of further investigation and analysis of Respondents' operations without need for any additional formal hearings. If resolved, staff's motion contemplates that this proceeding would be terminated by subsequent Commission order.

In the event these matters are incapable of resolution in that manner staff and Respondents now propose to submit their differences for Commission decision upon the basis of a stipulated record, or failing stipulation, upon the basis of further factual hearings to be commenced following the submittal of prepared testimony. Staff and Respondents propose to exchange their respective prepared written testimony, with all exhibits attached, as follows: January 15, 1968, simultaneous service of all further direct testimony and February 15, 1968, simultaneous service of all reply testimony. Staff and Respondents propose to undertake any cross-examination commencing March 1, 1968.

In our opinion deferral of additional hearings in this proceeding as requested by staff and Respondents will lead to resolution of all jurisdictional issues herein raised and to overall effective implementation of the Commission's substantive regulatory requirements at the earliest practical time. The proposed revised order of procedure should be adopted.

Simultaneously, with the filing of its Motion For Enlargement of Proceeding staff filed a motion with the Presiding Examiner for a 60-day continuance of all dates for service of prepared testimony and further hearing as those dates are now reflected in the Examiner's Ruling of June 20, 1966. Under that Ruling, Respondent companies and staff are scheduled to serve prepared testimony at various times commencing August 12, 1966. Staff filed its Motion for Continuance with the Examiner in the event Commission action was not taken with respect to staff's Motion For Enlargement of Proceeding prior to August 12, 1966. Respondent companies joined in staff's motion to the Examiner by joint answer filed August 5, 1966. On August 3, 1966, staff's motion was referred to the Commission by the Examiner.

In view of the action taken herein in regard to staff's motion for enlargement of proceeding and deferral of further hearings, we find it unnecessary to pass upon staff's motion to the Examiner for continuance and the joint Answer of Respondents thereto.

The Commission further finds:

It is necessary and appropriate for the purposes of the Federal Power Act, particularly, but not in limitation of the foregoing, Sections 201, 205, 206, 208, 301, 307, 308 and 309, that the Commission find and determine in the above-entitled matter whether the sales and services of Detroit and Consumers at wholesale for resale to the respective entities as set forth in Paragraph (A) below are sales and services at wholesale in interstate commerce subject to the jurisdiction of this Commission under the provisions of the Federal Power Act for which Detroit and Consumers must file appropriate rate schedules in the manner provided in Part 35 of the Commission's Regulations under that Act; that the public hearing in the above-entitled matter be deferred to January 15, 1968; and that a revised order procedure be adopted.

The Commission orders:

The Commission's order issued July 20, 1965 in the above-entitled matter is hereby amended by the addition of the following paragraphs (E), (F) and (G).

(E) The public hearing in this matter in addition to matters referred to above shall find and determine whether the following sales and services of Detroit and Consumers, respectively, are subject to this Commission's regulatory jurisdiction pursuant to the provisions of Sections 205 and 206 of the Federal Power Act and Part 35 of the Commission's Regulations thereunder.

Detroit:
- Village of Clinton, Michigan
- Consumers Power Company
- City of Croswell, Michigan
- City of Detroit, Michigan
- Thumb Electric Coop.
- City of Wyandotte, Michigan

Consumers:
- Alpena Power Co.
- Bay City, Michigan
- City of Charlevoix, Michigan
- Village of Chelsea, Michigan
- City of Coldwater, Michigan
- Detroit Edison Co., The
- City of Eaton Rapids, Michigan
- Edison Sault Electric Co.
- City of Harbor Springs, Michigan
- City of Hillsdale, Michigan
- City of Holland, Michigan
- City of Lansing, Michigan
- City of Marshall, Michigan
- Northern Mich. Elec. Coop.
- City of Petoskey, Michigan
- Village of Portland, Michigan
- Rogers City Power Co.
- Southeastern R.E.C.
- Wolverine Electric Coop.
- Village of Union City, Michigan

(F) The public hearing in this matter is deferred to January 15, 1968, unless this proceeding is terminated theretofore by further order of the Commission.

(G) In the event the above-entitled proceeding is not terminated on or before January 15, 1968, and the issues herein are not presented for Commission consideration upon the basis of a stipulation Detroit, Consumers, staff and any other party shall exchange their respective prepared written testimony, with all exhibits attached, on all issues raised herein as follows: January 15, 1968, simultaneous service of all further direct testimony; and February 15, 1968, simultaneous service of all reply testimony. Cross-examination of this testimony shall commence March 1, 1968.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

KASKASKIA GAS COMPANY AND MISSISSIPPI RIVER TRANSMISSION CORPORATION, DOCKET NO. CP66-224

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued August 12, 1966)

On January 13, 1966, Kaskaskia Gas Company (Applicant) filed in Docket No. CP66-224 an application pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Mississippi River Transmission Corporation (Respondent) to establish physical connection of its facilities with the facilities proposed to be constructed by Applicant and to sell and deliver natural gas to Applicant for resale and distribution in the unincorporated area of Salem Township, Illinois, all as more fully set forth in the application.

Applicant proposes to construct and operate approximately 0.95 mile of 3-inch and 3.4 miles of 2-inch transmission pipeline, tap lines to consumers and the necessary regulating, odorizing and heating facilities. The proposed tap of Respondent's line would be constructed at a point on the portion of the line which traverses the township and within the area of Applicant's proposed service.

The estimated volumes of natural gas necessary to meet Applicant's annual and peak day requirements for the Salem Township area in the initial three-year period of proposed operations are stated to be:

	First year	Second year	Third year
Annual (Mcf)	11,600	15,700	17,900
Peak day (Mcf)	126	163	181

The estimated cost of Applicant's proposed construction is $70,000 and will be financed by the issuance of common stock and mortgage bonds.

On February 17, 1966, Respondent filed an answer to the application stating it is willing to serve the natural gas requirements of Applicant, but that its ability to so serve is dependent upon the Commission's certificate authorization in Docket No. CP62-243. On July 1, 1966, 36 FPC 1, the Commission issued its order in Docket No. CP62-243 authorizing the capacity increase applied for.

Due notice of the filing of the subject application and opportunity for hearing thereon have been given by publication in the Federal Register on January 29, 1966 (31 F.R. 1219). No protest, petition to intervene or request for hearing has been filed in this proceeding.

The Commission finds:

(1) Mississippi River Transmission Corporation, a Delaware corporation having its principal place of business in St. Louis, Missouri, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of November 29, 1960, in Docket No. CP60-95 (24 FPC 1020).

(2) Applicant, Kaskaskia Gas Company, an Illinois corporation having its principal place of business in Salem, Illinois, is a corporation legally authorized

to engage in the local distribution of natural gas to the public within the meaning of Section 7(a) of the Natural Gas Act.

(3) It is necessary and desirable in the public interest to direct Respondent to establish physical connection of its transmission facilities with the facilities proposed to be constructed and operated by Applicant and to sell and deliver to Applicant under a service agreement to be executed by Applicant with Respondent in accordance with the Commission's Regulations up to 181 Mcf per day of natural gas for distribution and resale as hereinbefore described.

(4) The requirement that Respondent serve Applicant, as hereinafter ordered, will not impair Mississippi's ability to render adequate service to its existing customers.

(5) Applicant should be prepared to receive natural gas from Respondent for distribution in Salem Township of Marion County, Illinois, and environs within one year from the date of the issuance of this order.

The Commission orders:

(A) Mississippi River Transmission Corporation is directed to establish physical connection of its facilities with the facilities proposed to be constructed and operated by Applicant, Kaskaskia Gas Company, as herein described, and to sell and deliver up to 181 Mcf of natural gas daily to Applicant under a service agreement to be executed by Applicant with Respondent in accordance with the Commission's Regulations, for distribution and resale in the Salem Township area of Marion County, Illinois, as hereinbefore described.

(B) Mississippi shall report to the Commission in writing the date of commencement of service to Applicant within 10 days thereof.

(C) Applicant shall be prepared to receive service as directed herein within one year from the date of issuance of this order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

NATURAL GAS PIPELINE COMPANY OF AMERICA, DOCKET NO. CP66–372

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 12, 1966)

On May 17, 1966, Natural Gas Pipeline Company of America (Applicant) filed in Docket No. CP66–372 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of an additional daily contract quantity of 16,000 Mcf of natural gas to Iowa Illinois Gas and Electric Company (Iowa Illinois) an existing customer of Applicant, all as more fully set forth in the application.

By letter dated March 4, 1966, Iowa Illinois requested an additional daily contract quantity of 16,000 Mcf of gas from Applicant commencing December 1, 1966, primarily to meet increased firm requirements of residential and space heating customers in the markets which it serves in Iowa and Illinois.

The increased volumes of natural gas will be sold to Iowa Illinois under Applicant's CD–1 Rate Schedule from its existing unallocated capacity.

No new facilities will be required as a result of the proposed additional service.

Due notice of the filing of the application was published in the Federal Register on June 1, 1966 (31 F.R. 7771). No protest, petition to intervene or notice of intervention has been filed in this proceeding.

At a hearing held on August 11, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Natural Gas Pipeline Company of America, a Delaware corporation, having its principal place of business in Chicago, Illinois, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of October 13, 1942, in Docket No. G-235 (3 FPC 830).

(2) The proposed sale of increased volumes of natural gas hereinbefore described, as more fully described in the application in this proceeding, is to be a sale for resale in interstate commerce subject to the jurisdiction of the Commission and is subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The sale of increased volumes of natural gas, as proposed in the application, is required by the public convenience and necessity, and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate hereinafter issued and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b) and (e) of Section 157.20 of said Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, Natural Gas Pipeline Company of America, authorizing the sale of increased volumes of natural gas, as hereinbefore described and as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a) and (e) of Section 157.20 of such Regulations.

(C) The sale of increased volumes of natural gas authorized in paragraph (A) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within 6 months from the date of this order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

CITY OF POTOSI, MISSOURI AND MISSISSIPPI RIVER TRANSMISSION CORPORATION, DOCKET NO. CP66-162

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued August 12, 1966)

On November 24, 1965, the City of Potosi, Missouri (Applicant) filed in Docket No. CP66-162 an application as amended on December 17, 1965, pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Mississippi River Transmission Corporation (Respondent) to establish physical connection of its natural gas transmission facilities with the facilities proposed to be constructed by Applicant and to sell and deliver natural gas to Applicant for resale and distribution in the City of Potosi, Missouri, and in the community of Frankclay, Missouri, and environs, all as more fully set forth in the application and amendment thereto.

Applicant proposes to construct, own, and operate a natural gas distribution system in Potosi and the necessary gas distribution facilities in Frankclay. Applicant also proposes to construct and operate a 4½-inch lateral transmission line approximately 15 miles in length extending westward from a point of interconnection at Desloge, Missouri, with Respondent's main transmission line to the city-gate of Potosi. Applicant states that this lateral facility will pass in close proximity to Frankclay.

The total estimated volumes of natural gas necessary to meet Applicant's annual and peak day requirements for the City of Potosi and the community of Frankclay, Missouri, in the initial three-year period of proposed operations are stated to be:

	First year	Second year	Third year
Annual (Mcf)	116,290	131,460	138,920
Peak day (Mcf)	1,165	1,320	1,405

The estimated cost of Applicant's proposed construction is $520,000, and will be financed by the issuance of gas revenue bonds.

On November 29, 1965, Respondent was duly advised of the application filed in this proceeding, and due notice of the filing and opportunity for hearing thereon has been given by publication in the Federal Register on December 11, 1965 (30 F.R. 15334). No protest, petition to intervene or request for hearing has been filed in this proceeding.

Respondent filed an answer in the proceeding on January 3, 1966, stating it is willing to serve the natural gas requirements of Applicant, but that its ability to so serve is dependent upon Commission's certificate authorization in Docket No. CP62-243. On July 1, 1966, the Commission issued its order in Docket No. CP62-243 authorizing the capacity increase applied for.

The Commission finds:

(1) Respondent, Mississippi River Transmission Corporation, a Delaware corporation having its principal place of business in St. Louis, Missouri, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of November 29, 1960, in Docket No. CP60-95 (24 FPC 1020).

(2) Applicant, is legally authorized to engage in the local distribution of natural gas to the public within the meaning of Section 7(a) of the Natural Gas Act.

(3) It is necessary and desirable in the public interest to direct Respondent to establish physical connection of its transmission facilities with the facilities proposed to be constructed and operated by Applicant, and to sell and deliver to Applicant under a service agreement to be executed by Applicant with Respondent in accordance with the Commission's Regulations, up to 1,405 Mcf per day of natural gas for distribution and resale as hereinbefore described.

(4) The requirement that Respondent serve Applicant, as hereinafter ordered, will not impair its ability to render adequate service to its existing customers.

(5) Applicant should be prepared to receive natural gas from Respondent for distribution in the City of Potosi, Missouri, and Frankclay, within one year from the date of the issuance of this order.

The Commission orders:

(A) Mississippi River Transmission Corporation is directed to establish physical connection of its facilities with the facilities proposed to be constructed and operated by Applicant, as herein described, and to sell and deliver up to 1,405 Mcf of natural gas daily to Applicant under a service agreement to be executed by Applicant with Respondent in accordance with the Commission's Regulations, for distribution and resale as hereinbefore described.

(B) Respondent shall report to the Commission in writing the date of commencement of service to Applicant within 10 days thereof.

(C) Applicant shall be prepared to receive service as directed herein within one year from the date of issuance of this order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

TRANSCONTINENTAL GAS PIPE LINE CORPORATION, DOCKET NO. RP67-3

ORDER APPROVING PROPOSAL TO REDUCE RATES AND ACCEPTING REVISED TARIFF SHEETS FOR FILING

(Issued August 12, 1966)

Transcontinental Gas Pipe Line Corporation (Transco) on July 20, 1966, filed an "Agreement As To Rates" (Agreement), together with cost of service and revenue data for the year 1965, as adjusted, proposing, among other things, general reductions in its tariff rates aggregating approximately $8,300,000 annually based upon estimated 1966 billing quantities. Transco at the same time tendered for filing revised tariff sheets[1] to its FPC Gas Tariff, Volume Nos. 1 and 2 reflecting the reduced rate levels to become effective as of the first of the month in which the Commission issues a final, non-appealable order approving all the terms of the Agreement.[2]

The reductions in rates reflected in the Agreement (Article II), result primarily from Transco's proposal to discontinue use of deferred tax accounting and to flow through the benefits of liberalized depreciation and the reduction of its rate base by the accumulated deferred income taxes in Account 282, to its customers. In addition to the aforementioned immediate rate reductions, the Agreement also provides for:

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[1] The list of revised tariff sheets is attached hereto as Appendix A.

[2] By letter filed August 8, 1966, Transco advised that it is not scheduled to issue its final bills for July deliveries until the week of August 8, and if the rate filing is unconditionally approved during that week then it is willing to make its reduced rates effective as of July 1, 1966.

(i) reductions in rates, in accordance with the formula detailed in Article IV, if Transco's annualized weighted average cost of purchased gas is reduced by at least one-tenth of one cent below the base cost per Mcf of 17.8¢, or such base cost adjusted downward to reflect any reductions previously made under Article IV;

(ii) flow-through, in the manner set forth in Article V, of all supplier refunds received by Transco after the effective date of the reduced rates proposed in Article II of the Agreement;

(iii) flow-through, in the manner provided in Article V(B), of supplier refunds Transco has received and any similar refunds it may hereforth receive, attributable to gas purchases prior to the effective date of the reduced rates proposed in Article II, which Transco has heretofore claimed it has a right to retain under the provisions of its prior settlement agreements.

As a condition to the effectiveness of the Agreement or any of its provisions the Commission is requested to give concurrent approval to the following accounting procedures (Article III):

(i) discontinuance of deferred tax accounting and adoption of flow-through accounting with respect to reduction in income taxes resulting from use of liberalized depreciation;

(ii) grant of waiver of the requirements of paragraph A of Account 282 and continued use of other requirements of that account on a vintage year basis with respect to facilities constructed prior to the effective date of the reduced rates, and

(iii) in the event liberalized depreciation is eliminated from the Internal Revenue Code, any increase in income taxes resulting therefrom shall be charged against the amount accumulated in Account 282.

Following publication of notice of the filing, six comments were received. Five of those comments[3] indicate that the parties do not object to the proposal submitted by Transco. Generally, those comments either reserve the right to question the manner of computation of average cost of purchased gas relating to future rate reductions, or reserve a position taken in a pending proceeding. We are of the view that those reservations are consistent with the provisions of Article VI of the Agreement.

The single objection to the proposal was made jointly by Atlantic Seaboard Corporation and The Manufacturers Light and Heat Company (Columbia Companies), pipeline customers of Transco. Answer to that objection was filed by Transco on August 8, 1966.

The Columbia Companies do not object to the rate reduction to them as customers of Transco. They state that their protest is directed to the absence of sufficient information in the filing to support the proposed rate design, and the absence of information whether any weight is given to rate design principles used by the Staff in the pending restructured tariff proceedings involving the Columbia Companies.

We conclude that the objection of the Columbia Companies is without merit.

The thrust of the protest filed by the Columbia Companies appears to be that Transco's rates are too heavily weighted in the demand component as against the commodity component. Since the Columbia Companies purchase from Transco at approximately 100 percent load factor, the relative design of Transco's demand and commodity rates would make no difference to the Columbia Companies as customers. Thus, their objection appears to be related to the competition between Transco and Seaboard for the markets which are the subject matter of the proceedings in Docket No. CP65-102, *et al.* The record in those proceedings, as to Transco, was made upon the basis of Transco's rates which were effective at the time its evidence was presented in 1965, and that record is now closed. Transco in its answer states that it will stand upon that record as the basis for its request to serve the competitive markets, and it does not expect the decision in CP65-102 to take into consideration subsequently filed changes in rates.

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[3] Filed by The Philadelphia Gas Works Division of U.G.I., Philadelphia Electric Company, Long Island Lighting Company, Public Service Electric and Gas Company, and Consolidated Edison Company of New York, Inc., distribution customers of Transco.

In effectuating its proposal, Transco has reduced the demand component of its rates by 17¢ per Mcf and the commodity component by 0.5¢ per Mcf. These reductions maintain the historical pattern of Transco's demand and commodity rates. Clearly, the Columbia Companies' objection relates to the existing historical pattern of Transco's rates rather than to the proposed reductions, and seems to imply that their competitive position would be improved if Transco's historically approved rate structure were to be redesigned. As heretofore noted, the record in the competitive certificate case is now closed. Further, Transco in its answer alleges that "the stark fact is that Transco's rates are lower whatever the rate design and whether before or after the effectiveness of the instant filing."

Columbia Companies have made no showing of any benefit to the customers of Transco from a hearing on rate design at this time. On the contrary, we believe it would not be appropriate or in the public interest to delay the substantial rate reductions and refund flowing to Transco's customers from its proposal.

The Commission finds:

(1) Good cause exists for waiving the requirements of Section 154 of the Commission's Regulations under the Natural Gas Act in order that the revised tariff sheets listed in Appendix A to this order may become effective on July 1, 1966, as hereinafter provided.

(2) The proposed revised tariff sheets, the rate reductions therein contained and Transco's Agreement to flow-through refunds and further reduce rates, in accordance with the provisions of that Agreement, are in the public interest in carrying out the provisions of the Natural Gas Act, and should be accepted for filing and made effective as hereinafter provided and ordered.

The Commission orders:

(A) The provisions of Section 154 of the Commission's Regulations under the Natural Gas Act are hereby waived subject to the terms and conditions of this order and the revised tariff sheets listed in Appendix A attached hereto are accepted for filing to become effective as of July 1, 1966.

(B) Transco's Agreement filed on July 20, 1966, is approved and made effective as proposed therein, and as modified by Transco's letter filed August 8, 1966, subject to the terms and conditions of this order.

(C) Transco shall comply with each of the provisions of the Agreement relating to refunds and future rate reductions.

(D) Prior to distribution of any refunds required by the provisions of the aforementioned Agreement, Transco shall file a report with the Commission setting forth the amount to be refunded to each customer and the billing determinants used in computing such refunds. A copy of that report shall be served on each customer and interested State commissions. Transco shall retain the amounts to be refunded pending further action by the Commission, prescribing the disposition of such refunds.

(E) This order is without prejudice to any findings or orders which have been made or may hereafter be made by the Commission and is without prejudice to any claims which may be made by the Commission, Transco, the Commission Staff, or any other party affected by this order, in any proceedings now pending or hereafter instituted by or against Transco or any other persons or parties affected by this order.

Commissioner O'Connor *concurring* in the result stated that he reserves for future consideration his views with respect to the accounting treatment.

APPENDIX A

LIST OF REVISED TARIFF SHEETS FILED

Original Volume No. 1 of FPC Gas Tariff:	
Rate Schedule CD-1	Twenty-Sixth Revised Sheet No. 5.
	Twenty-Fourth Revised Sheet No. 9.
Rate Schedule CD-2	Twenty-Sixth Revised Sheet No. 12.
	Twenty-Fifth Revised Sheet No. 16.
Rate Schedule CD-3	Twenty-Third Revised Sheet No. 17-B.
	Twenty-Second Revised Sheet No. 17-F.
Rate Schedule GSS	Fourth Revised Sheet No. 17-H.
	Fourth Revised Sheet No. 17-I.
	Sixth Revised Sheet No. 17-N.
	Seventh Revised Sheet No. 17-O.
Rate Schedule G-1	Twenty-Fifth Revised Sheet No. 19.
Rate Schedule G-2	Twenty-Fifth Revised Sheet No. 24.
Rate Schedule G-3	Twenty-Second Revised Sheet No. 26-B.
Rate Schedule OG-1	Twelfth Revised Sheet No. 26-G.
Rate Schedule OG-2	Twelfth Revised Sheet No. 26-L.
Rate Schedule OG-3	Twelfth Revised Sheet No. 26-Q.
Rate Schedule LTF-2	Twenty-Fourth Revised Sheet No. 28-1.
Rate Schedule LTF-3	Sixteenth Revised Sheet No. 28-K.2.
Rate Schedule S-2	Twentieth Revised Sheet No. 28-P.
	Fifteenth Revised Sheet No. 28-R.
Rate Schedule ACQ-2	Third Revised Sheet No. 28-X.3.
Rate Schedule ACQ-3	Seventeenth Revised Sheet No. 28-AA.
Original Volume No. 2 of FPC Gas Tariff:	
Rate Schedule X-11	Thirteenth Revised Sheet No. 51.
Rate Schedule X-42	First Revised Sheet No. 321.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

WISCONSIN GAS COMPANY AND MICHIGAN WISCONSIN PIPE LINE COMPANY, DOCKET NO. CP66-387

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued August 12, 1966)

On May 26, 1966, Wisconsin Gas Company (Applicant) filed in Docket No. CP66-387 an application, as supplemented on July 14, 1966, pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Michigan Wisconsin Pipe Line Company (Respondent) to construct certain natural gas transmission facilities, to establish physical connection of its transmission facilities with facilities proposed to be constructed by Applicant and to sell and deliver natural gas to Applicant for resale and distribution in the cities of

Adams, Markesan, Montello, Princeton and Wautoma, Wisconsin, and several villages in central Wisconsin, all as more fully set forth in the application.

Applicant proposes to construct and operate distribution systems and portions of lateral pipelines to serve 25 cities and villages in central Wisconsin in the counties of Green Lake, Marquette, Waushara, Fond du Lac, Adams and Waupaca. The specific communities proposed to be served, in addition to the aforementioned cities, are as follows: the villages of Coloma, Endeavor, Fairwater, Fremont, Friendship, Hancock, Kingston, Lohrville, Marquette, Neshkoro, Oxford, Plainfield, Redgranite, Westfield and Wild Rose, and the unincorporated villages of Dalton, Manchester, Packwarkee, Pine River and Poy Sippi.

On July 14, 1966, Applicant filed a supplement to the instant application, stating that all the communities named in the application, except the village of Fremont, have issued franchises or local authorizations permitting Applicant to transact therein its gas utility business, and that Applicant has been so authorized by the Public Service Commission of Wisconsin. By said supplement, Applicant requests that Respondent be directed to establish all the delivery and transmission facilities outlined in the application to serve the other 24 communities and further requests that Respondent be required to serve Fremont when Applicant supplements its application by filing a copy of the Fremont franchise.

Accordingly, the Commission will defer any action with regard to the community of Fremont pending the filing of a supplement by Applicant showing receipt of the Fremont franchise, at which time the Commission will take appropriate action.

The total estimated annual and peak day volumes necessary to meet the natural gas requirements of the aforementioned 24 communities are 918,193 Mcf and 5,221 Mcf, respectively.

The total estimated cost of Applicant's proposed construction exclusive of Fremont is $3,010,580, which cost will be financed by cash on hand and by short term bank loans.

Respondent filed an answer to the instant application on June 17, 1966, stating that it was agreeable to the issuance of the requested order.

Due notice of the filing of the application and opportunity for hearing thereon was published in the Federal Register on June 10, 1966 (31 F.R. 8202). No protest, petition to intervene or notice of intervention has been filed.

The Commission finds:

(1) Respondent, Michigan Wisconsin Pipe Line Company, a Delaware corporation, with its principal place of business in Detroit, Michigan, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of November 30, 1946, in Docket No. G–669 (5 FPC 953).

(2) Applicant is a public utility company in the State of Wisconsin and is authorized to construct and operate facilities to distribute and sell natural gas to inhabitants of the communities along its system.

(3) It is necessary and desirable in the public interest that Respondent be directed to establish physical connection of its transportation facilities with the facilities proposed to be constructed by Applicant and to sell and deliver up to 5,221 Mcf of natural gas per day to Applicant, as hereinbefore described and as more fully set forth in the application, as hereinafter ordered and conditioned.

(4) The requirement that Respondent serve Applicant, as requested, will not place an undue burden upon Respondent nor impair its ability to render adequate service to existing customers.

The Commission orders:

(A) Respondent is directed to establish physical connection of its natural gas transmission system with the facilities to be constructed by Applicant and to sell and deliver up to 5,221 Mcf of natural gas per day to Applicant, all as hereinbefore described and as more fully described in the application, as supplemented.

(B) Applicant shall be prepared to receive natural gas from Respondent within one year from the date of this order.

(C) Respondent shall notify the Commission of the commencement of service within 10 days thereof.

(D) Respondent shall execute and file with the Commission a service agreement with Applicant in accordance with the Commission's Regulations.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

EL PASO NATURAL GAS COMPANY, DOCKET NO. CP62–265

FINDINGS AND ORDER FURTHER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 15, 1966)

On June 13, 1966, El Paso Natural Gas Company (Petitioner) filed in Docket No. CP62–265, as supplemented on July 12, 1966, a petition to amend further the Commission's order issued May 16, 1963, 29 FPC 984, in said docket, as amended, 30 FPC 16, by authorizing Petitioner to operate certain facilities presently installed, the construction and operation of which were not authorized by the order of May 16, 1963, as amended, all as more fully set forth in the petition to amend in this proceeding.

The order of May 16, 1963, as amended, authorized Petitioner to construct and operate certain facilities and to sell and deliver natural gas to California-Pacific Utilities Company for transportation to and resale and general distribution in Grants Pass, Oregon, and fifteen other southern Oregon communities.

In conformity with the order of May 16, 1963, as amended, Petitioner filed with the Commission its statement of cost of authorized facilities. Said statement showed that seven submerged river crossings were installed instead of five such crossings as originally authorized, and that 126.9 miles of 10¾-inch pipeline had been installed instead of the 121.6 miles as originally proposed and authorized. Petitioner states that unexpected difficulties with terrain and right-of-way difficulties resulted in the installation of the additional mileage of 10-inch pipe. Conflict with a right-of-way for a railroad and highway resulted in Petitioner having to install the two additional river crossings.

Accordingly, Petitioner, at the request of the Commission, filed the subject petition to amend in order to conform the original certificate authorization with the actual installations of facilities.

Due notice of the filing of the petition to amend and opportunity for hearing thereon has been given by publication in the Federal Register on June 30, 1966 (31 F.R. 9031). No protest or petition to intervene has been filed in this proceeding.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's order issued May 16, 1963, in Docket No. CP62-265, as amended, be further amended as hereinafter ordered.

The Commission orders:

(A) The Commission's order issued May 16, 1963, in Docket No. CP62-265 is further amended by authorizing Petitioner to operate facilities presently installed, the construction and operation of which were not authorized by the order of May 16, 1963, as amended, all as hereinbefore described and as set forth in the petition to amend in this proceeding.

(B) In all other respects said order, as amended, shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

EL PASO NATURAL GAS COMPANY, DOCKET NO. CP65-153

ORDER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 15, 1966)

On May 27, 1966, El Paso Natural Gas Company (Petitioner) filed in Docket No. CP65-153 a petition to amend the order issued in said docket on March 10, 1965 (33 FPC 519), requesting the deletion therefrom of authorization to construct and operate the Fourway delivery point facilities in Moore County, Texas, all as more fully set forth in the petition to amend.

By order issued in the instant docket on March 10, 1965, Petitioner was granted authorization necessary to implement the purchase and receipt of natural gas from Colorado Interstate Gas Company (Colorado) at two points situated, respectively, at the existing interconnection of Colorado's facilities with the facilities of Northern Natural Gas Company (Northern) in Moore County, Texas (Northern delivery point), and at the intersection of Colorado's facilities with the facilities of Petitioner in Moore County, Texas (Fourway delivery point), for a limited term continuing through February 29, 1968. No additional facilities were required by either party at the existing Northern delivery point. At the Fourway delivery point, interconnection and metering facilities were required and were authorized by the subject order.

Petitioner states that Colorado has made deliveries to Northern for Petitioner's account at the Northern delivery point as authorized by the subject order, but that deliveries have not been made at the Fourway delivery point and are not contemplated at such point. Petitioner further states that facilities authorized to be constructed and operated by both Petitioner and Colorado at such point have not been installed since operating experience has proved such additional delivery point, originally proposed to permit flexibility of operation, to be unnecessary.

Due notice of the filing of the petition to amend and opportunity for hearing thereon has been given by publication in the Federal Register on June 15, 1966 (31 F.R. 8387). No petition to intervene, notice of intervention, or protest to the granting of the application has been filed.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's order issued March 10, 1965, in Docket No. CP65-153 be amended as hereinafter ordered.

The Commission orders:

(A) The Commission's order issued March 10, 1965, in Docket No. CP65-153 is amended so as to delete therefrom the authorization to construct and operate facilities at the Fourway delivery point.

(B) In all other respects said order shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

LONE STAR GAS COMPANY, DOCKET NO. CP66-401

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 15, 1966)

On June 6, 1966, Lone Star Gas Company (Applicant) filed in Docket No. CP66-401 an application pursuant to Section 7(c) of the Natural Gas Act, as implemented by Section 157.7(c) of the Regulations under the Act, for a certificate of public convenience and necessity authorizing the construction during the calendar year 1966 and the operation of natural gas facilities for the sale of natural gas to direct customers, all as more fully set forth in the application in this proceeding.

Applicant proposes to construct and operate the necessary connecting pipeline and metering facilities for direct sales of natural gas to consumers for oil field operations located in areas outside of the franchise area of any local distributor. Applicant states that a maximum of 20 such consumers are proposed to be served under the authorization requested by the instant application.

The total cost of facilities proposed will not exceed a maximum of $20,000, with no single project to exceed a cost of $1,000. Total deliveries to any one consumer will not exceed a maximum of 100,000 Mcf of natural gas per year, and no gas will be sold for boiler fuel purposes, as defined by Section 157.7 (c)(9) of the Commission's Regulations under the Act.

The estimated cost of facilities will be financed from cash on hand.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on August 11, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Lone Star Gas Company, a Texas corporation having its principal place of business in Dallas, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of April 11, 1944, in Docket No. G-442 (4 FPC 565).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are proposed to be used in the transportation

of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e) and (f) of Section 157.20 of said Regulations.

(6) The authorization hereinafter granted should be limited to construction during the calendar year 1966 and the total expenditures for facilities to be constructed thereunder should be limited to a maximum of $20,000, with no single project to exceed a maximum of $1,000. Total deliveries to any one consumer should not exceed a maximum of 100,000 Mcf of natural gas per year.

(7) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Applicant should submit, within 60 days after the expiration of the authorization granted hereinafter, a statement in compliance with Section 157.7(c)(8) of the Commission's Regulations under the Act.

(8) The certificate issued hereinafter should be conditioned upon Applicant's compliance with the provisions of Section 157.7(c)(7) of the aforesaid Regulations.

The Commission orders:

(A) Upon the terms and conditions of this order, a certificate of public convenience and necessity is issued authorizing Applicant, Lone Star Gas Company, to construct during the calendar year 1966 the proposed facilities hereinbefore described, as more fully described in the application in this proceeding, and to operate such facilities for the direct sale of natural gas to field customers as hereinafter provided.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e) and (f) of Section 157.20 of said Regulations.

(C) The authorization granted in paragraph (A) above is limited to construction during the calendar year 1966 and the total expenditures for facilities to be constructed thereunder are limited to a maximum of $20,000, with no single project to exceed a maximum of $1,000. The total deliveries to any one customer are limited to a maximum of 100,000 Mcf of natural gas per year.

(D) Applicant shall submit within 60 days after the expiration of the authorization granted by paragraph (A) above a statement in compliance with Section 157.7(c)(8) of the Commission's Regulations under the Natural Gas Act.

(E) The certificate issued by paragraph (A) above is expressly conditioned upon Applicant's compliance with the provisions of Section 157.7(c)(7) of the aforesaid Regulations and, further, the certificate is granted upon the express condition that the interruptible service authorized herein shall be curtailed or interrupted to the extent required to meet existing or future contracted maximum delivery obligations of Applicant for firm service to its customers.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

PANHANDLE EASTERN PIPE LINE COMPANY, DOCKET NO. CP66–260

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND PERMITTING AND APPROVING ABANDONMENT OF FACILITIES

(Issued August 15, 1966)

On February 4, 1966, Panhandle Eastern Pipe Line Company (Applicant) filed in Docket No. CP66–260, as supplemented on March 21, 1966, an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of two 30-inch pipeline crossings of the Missouri River to replace existing crossings and for permission and approval to abandon in place certain existing crossings of said river, all as more fully set forth in the application, as supplemented, in this proceeding.

Applicant states that its main transmission system crosses the Missouri River between Howard and Cooper Counties, Missouri, and that at the present time the river crossings at this point consist of the following: (a) Line 100 utilizing six 10-inch lines, (b) Line 200 utilizing four 12-inch lines, (c) Line 300 consisting of a single 26-inch line and (d) Line 400 consisting of a single 30-inch line. Applicant proposes that following the completion of the two new 30-inch crossings Line 100 crossing will be abandoned in place and Line 300 crossing will be retained for standby purposes.

Specifically, upon installation of the two new crossings, Applicant proposes to route the Line 100 flow into the existing Line 200 crossing and to route the Line 200 flow into one of the proposed 30-inch crossings. The Line 300 flow will be routed into the other proposed 30-inch crossing. No change will be made with regard to the Line 400 flow.

Applicant states that numerous leaks have been experienced in Line 100 and that the most recent inspections of said line show that it is badly eroded. Line 300 has also been eroded and can not be depended upon for service except on a standby basis. The proposed new crossings will, therefore, assist Applicant to continue rendering dependable service from its main transmission system.

The total estimated cost of Applicant's proposed facilities is $2,388,000, which cost will be financed from general sources available to Applicant.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on August 11, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, supplement and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Panhandle Eastern Pipe Line Company, a Delaware corporation having its principal place of business in Kansas City, Missouri, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of September 23, 1942, in Docket Nos. G–200 and G–207 (3 FPC 273).

(2) The proposed facilities hereinbefore described, as more fully described in the application, as supplemented, in this proceeding, are to be used in the

transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4) and (e) of Section 157.20 of such Regulations.

(6) The facilities to be abandoned, as hereinbefore described, all as more fully described in the application, as supplemented, in this proceeding, are subject to the jurisdiction of the Commission, and the abandonment of such facilities is subject to the requirements of Subsection (b) of Section 7 of the Natural Gas Act.

(7) Such abandonment by Applicant, as hereinbefore described, is permitted by the public convenience and necessity and should be approved as hereinafter ordered.

(8) Applicant, as a condition to the abandonment authorization hereinafter granted, should comply with the rules, regulations and orders of the Department of the Army issued pursuant to the Rivers and Harbors Act of 1899.

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Applicant, Panhandle Eastern Pipe Line Company, to construct and operate the proposed facilities as hereinbefore described, all as more fully described in the application, as supplemented, herein, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4) and (e) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be constructed and placed in actual operation, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within seven months from the date on which this order issues.

(D) Permission for and approval of the abandonment by Applicant of the facilities hereinbefore described, all as more fully described in the application, as supplemented, in this proceeding, are granted.

(E) Applicant shall advise the Commission of the date of the aforesaid abandonment within ten days of the date thereof.

(F) Applicant, as a condition to the abandonment authorization granted by paragraph (D) above, shall comply with the rules, regulations and orders of the Department of the Army issued pursuant to the Rivers and Harbors Act of 1899.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

CITY OF SITKA, ALASKA, PROJECT NO. 2230

ORDER APPROVING PROJECT EXHIBITS AND FIXING ANNUAL LAND CHARGES

(Issued August 15, 1966)

On February 26, 1959, City of Sitka, Alaska, licensee for Project No. 2230, filed for Commission approval Exhibits J and K showing the location of lands of the United States to be occupied by the transmission line extending between the project powerhouse and a substation in the City of Sitka connecting with the licensee's distribution system. The exhibits were filed pursuant to Article 33 of the license for the project which is located on Blue Lake and Medvetcha River on Baranof Island, First Judicial Division, Alaska, and affects lands of the United States within the Tongass National Forest and other lands of the United States.

The aforementioned exhibits show that the transmission line occupies 0.95 mile of 100-foot wide right-of-way, 1.93 miles of 200-foot wide right-of-way, and 1.51 miles of 200-foot wide right-of-way, on lands of the United States, with a resultant annual charge for such occupancy in the amount of $62.64, which should be made effective as of April 1, 1958, the effective date of the license.

While Exhibit K drawings (FPC Nos. 2230-22, -24, and -25) showing the lands of the United States occupied by project works other than the transmission line have been approved as part of the license for the project, no annual charges for such occupancy have been determined and fixed in the license. The drawings show that the non-transmission line project works occupy a total of 785.81 acres of lands of the United States, with a resultant annual charge for such occupancy in the amount of $1,885.94 which also should be made effective as of April 1, 1958.

Since our February 10, 1959, 21 FPC 208, order amending the license, 19 FPC 579, in which we last described the project works then comprising the project, we have by several subsequent orders approved revised project exhibits showing additional changes in the project works which have not been reflected in the license. Accordingly, we are in paragraph (C) herein describing the project as it presently exists.

By Commission order issued February 10, 1959, we authorized several changes and additions in the project works, including relocation of the powerhouse to a site downstream on the Medvetcha River near tidewater, which increased the designed net head from 195 to 267 feet and changed the characteristics of the generating equipment. Although the order required (Article 31) the licensee to file for Commission approval a revised Exhibit M showing the generating equipment characteristics, our records show that no such exhibit has been received to date. Hence, we are by paragraph (E) requiring the filing of the exhibit within one year from the date of issuance of this order.

The Commission finds:

(1) The following described exhibits conform to the Commission's rules and regulations and should be approved as part of the license for the project, and license Exhibit J (FPC No. 2230-4) which has been superseded, should be eliminated from the license for the project:

Exhibit J: (FPC No. 2230-26) General Map of Area-Transmission Line

Exhibit K: (FPC No. 2230-27, through -30) Detail-Map-Transmission Line Right-of-Way

(2) The amount of annual charges to be paid under the license for recompensing the United States for the use, occupancy, and enjoyment of its lands by the project is reasonable as hereinafter fixed and specified.

The Commission orders:

(A) The Exhibits J and K mentioned in finding (1) above as conforming to the Commission's rules and regulations are hereby approved as part of the license for Project No. 2230, and superseded license Exhibit J (FPC No. 2230-44) mentioned in the same finding, is hereby eliminated from the license for the project.

(B) *PARAGRAPH I* of our aforementioned February 10, 1959, order is hereby deleted from the order.

(C) Project No. 2230 presently consists of:

(i) all lands constituting the project area and enclosed by the project boundary or the limits of which are otherwise defined, and/or interests in such lands necessary or appropriate for the purpose of the project, whether such lands or interests therein are owned or held by the applicant or by the United States; such project area and project boundary being more generally shown and described by certain exhibits which formed part of the application for license or amendment thereof and which are designated and described as follows:

Exhibit J: (FPC No. 2230-3 and -26) General Maps of Area
Exhibit K: (FPC No. 2230-22) Upper Tunnel, Dam Site, Intake
(FPC No. 2230-24) Penstock and Tunnel
(FPC No. 2230-25) Tunnel and Conduit
(FPC Nos. 2230-27 through -30) Transmission Line Right-of-Way

(ii) project works consisting of a single arch concrete dam with overflow spillway at elevation 342 feet and top of parapet wall on dam at elevation 351 feet located approximately 400 feet downstream from the outlet of Blue Lake on Medvetcha River, which raises the water surface of Blue Lake from its normal elevation and increases the surface area from 490 acres to approximately 1,215 acres and provides about 150,000 acre feet of storage and has provisions for the future increase in height of dam to 365 feet m.s.l., which would increase the water surface to 1,295 acres, the total storage to 176,500 acre feet; a fixed wheel intake gate; a conduit consisting of two concrete lined tunnels and unlined tunnels of 1,478 feet and 5,518 feet in length; an 18-inch Howell-Bunger valve in the conduit at a point where the conduit crosses the Medvetcha River; a penstock 337 foot long of 8 foot diameter steel pipe with provisions for a water main outlet to the Alaska Lumber & Pulp Company, Inc.; a surge tank; a concrete powerhouse containing an initial installation of two 5,250 horsepower Francis type turbines connected to two 3,000 kw generators with provision for future installation of a third unit; a substation; a transmission line to Sitka; and other appurtenant facilities; the location, nature and character of which are more specifically shown and described by the exhibits hereinbefore cited and by certain other exhibits which also formed part of the application for license or amendment thereof and which are designated and described as follows:

Exhibit L: (FPC No. 2230-19) Dam sections
(FPC No. 2230-20) Rating Curves and Tunnel details
(FPC No. 2230-21) Diversion and Intake Structure
(FPC No. 2230-31) Spillway Plan and Sections
(FPC No. 2230-32) General Plan of Dam—Left Half

(FPC No. 2230-33)	General Plan of Dam—Right Half
(FPC No. 2230-34)	Sections of Dam
(FPC No. 2230-35)	Foundation and Abutment Grouting, 1st Stage
(FPC No. 2230-36)	Powerhouse Site Plan
(FPC No. 2230-37)	Powerhouse Architectural Floor Plan
(FPC No. 2230-38)	Powerhouse—Architectural South and East Elevations
(FPC No. 2230-39)	Powerhouse—Architectural North and West Elevations
(FPC No. 2230-40)	Powerhouse Architectural Longitudinal Sections
(FPC No. 2230-41)	Powerhouse Architectural Cross Sections
(FPC No. 2230-42)	Powerhouse—Structural Plan Below El. 1483; and

Exhibit M: Six sheets entitled, "General Description of Equipment"

(D) Subparagraphs (2) and (3) of Article 34 of the license are hereby modified effective as of April 1, 1958, to read as follows:

(2) For the purpose of recompensing the United States for the use, occupancy, and enjoyment of its lands, exclusive of those used for transmission line purposes, $1,885.94;

(3) For the purpose of recompensing the United States for the use, occupancy, and enjoyment of its lands for transmission line purposes, $62.64.

(E) The licensee shall submit, in conformity with the Commission's rules and regulations a revised "Exhibit M" within one year from the date of issuance of this order.

(F) This order shall become final 30 days from the date of its issuance unless application for rehearing shall be filed as provided in Section 313(a) of the Act, and failure to file such an application shall constitute acceptance of this order. In acknowledgment of the acceptance of this order, it shall be signed for the licensee and returned to the Commission within 60 days from the date of issuance of this order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

TRANSCONTINENTAL GAS PIPE LINE CORPORATION AND TRUNKLINE GAS COMPANY, DOCKET NO. CP66-335

FINDINGS AND ORDER AFTER STATUTORY HEARING, PERMITTING AND APPROVING ABANDONMENT AND ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 15, 1966)

On April 25, 1966, Transcontinental Gas Pipe Line Corporation (Transco) and Trunkline Gas Company (Trunkline), collectively referred to as Applicants, filed in Docket No. CP66-335 an application together with a supplement thereto on June 24, 1966, pursuant to Sections 7(b) and 7(c) of the Natural Gas Act for permission and approval to abandon certain facilities and for a certificate of public convenience and necessity authorizing the construction and operation of the facilities necessary to establish an emergency interconnection between their respective pipeline systems at an existing exchange point in Beauregard Parish, Louisiana, all as more fully set forth in the application.

Pursuant to the terms of letter agreement dated April 13, 1966, Applicants propose that Trunkline construct, own and maintain a metering station and approximately 75 feet of 8-inch O.D. interconnecting pipeline extending from the existing tap and side valve assembly on its 20-inch Lakeside Lateral pipeline to said metering station and that Transco construct, own and maintain approximately 350 feet of 8-inch interconnecting pipeline extending from the valve assembly on its 30-inch pipeline to the metering station.

Transco and Trunkline propose to construct and operate the emergency interconnection at an existing point of exchange between the facilities of Transco and Trunkline where Trunkline's 20-inch Lakeside Lateral pipeline crosses Transco's dual 30-inch mainline pipelines in Township 7 South, Range 8 West, Section 14, Beauregard Parish, Louisiana.

The present facilities permitting an exchange of gas up to 30,000 Mcf per day were originally authorized by Commission order issued June 5, 1961, 25 FPC 1106, in Docket No. CP61–230 which put into effect a short term exchange arrangement contemplated favorably by the Commission in its Opinion No. 339 and accompanying order issued November 29, 1960, in Docket No. CP60–22, *et al.*, 24 FPC 1020. The use of the exchange facilities was continued as a result of a transportation arrangement between Transco and Trunkline authorized by Commission order issued September 8, 1961, in Docket No. CP61–300, 26 FPC 475. Approval to abandon the transportation service by Transco was granted by Commission order issued August 25, 1965, in Docket No. CP65–369, 34 FPC 584.

It is now proposed, by the present application, to convert the existing exchange point to an emergency interconnection by constructing additional facilities which will permit an increase in the amount of gas that may be exchanged during emergency conditions. The total cost of such additional facilities is estimated to be $24,553 of which Transco's share is estimated to be $6,000 and Trunkline's share is estimated to be $18,553. The cost of the proposed facilities will be financed by the respective companies from funds on hand.

The existing exchange facilities authorized in Docket No. CP61–230 consist of a 4-inch valve and 375 feet of 6-inch interconnecting pipeline installed by Transco and a 4-inch valve and dual 4-inch meter run installed by Trunkline. With the exception of Trunkline's 4-inch valve which will be utilized as a part of the emergency interconnection, Transco and Trunkline propose to salvage and return to storage their respective existing facilities. Upon receipt of the authorization requested herein, Transco and Trunkline will file the letter agreement which is attached as Exhibit X–1 to the application as a special rate schedule to their respective FPC Gas Tariffs.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application, has been filed.

At a hearing held on August 11, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, supplement and exhibits, submitted in support of the authorization sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, Trunkline Gas Company, a Delaware corporation having its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of April 29, 1949, in Docket No. G–882 (8 FPC 250).

(2) Applicant, Transcontinental Gas Pipe Line Corporation, a Delaware corporation having its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of May 29, 1948, in Docket No. G–704 (7 FPC 24).

(3) The proposed emergency exchange and delivery of natural gas between Transco and Trunkline, the construction of facilities, and the transportation of natural gas in interstate commerce, as hereinbefore described and as more fully described in the application and exhibits in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(4) The aforesaid proposed emergency exchange and delivery of natural gas, construction of facilities and transportation of natural gas are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) The facilities proposed to be abandoned by Applicants, as hereinbefore described and as more fully described in the applications filed in the proceeding are used in the transportation and sale of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and such abandonment is subject to the requirements of Subsection (b) of Section 7 of the Natural Gas Act.

(6) The proposed abandonment of the aforesaid facilities is permitted by the public convenience and necessity and permission and approval therefor should be granted as hereinafter ordered.

(7) Transco and Trunkline are able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(8) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Transco's and Trunkline's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is jointly issued to Transco and Trunkline in this proceeding authorizing the emergency exchange and delivery of natural gas, the construction and operation of facilities, and the transportation of natural gas in interstate commerce, as hereinbefore described, all as more fully described in the application and exhibits filed in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder is conditioned upon Transco's and Trunkline's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The facilities hereby authorized shall be constructed and ready for operation within three months of the date of this order as required by Section 157.20(b) of the Regulations.

(D) Permission for and approval of the abandonment by Transco and Trunkline of the facilities hereinbefore described, as more fully described in the application in this proceeding, are granted.

(E) Transco and Trunkline shall advise the Commission of the date of abandonment of the facilities as authorized in paragraph (D) above within ten days of such abandonment.

(F) Transco and Trunkline shall make appropriate rate filings in accordance with the provisions of the Commission's Regulations.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

UNION ELECTRIC COMPANY AND ELECTRIC ENERGY, INC., DOCKET NO. E-7299

ORDER AUTHORIZING SALE AND ACQUISITION OF FACILITIES

(Issued August 15, 1966)

Union Electric Company (Union) filed an application with the Federal Power Commission on June 27, 1966 seeking authority pursuant to Section 203 of the Federal Power Act to sell certain terminal facilities to Electric Energy, Inc. (EEI). On July 7, 1966, EEI joined in the filing of Union's application.

Union is incorporated in the State of Missouri and is qualified to do business in the States of Missouri, Illinois and Iowa with its principal business office at St. Louis, Missouri. It is engaged primarily in the generation, transmission, distribution and sale of electric energy in a service area that includes the City of St. Louis and ten counties in Missouri; five counties in Illinois and four counties in Iowa.

EEI was organized in 1950 to construct a 4-unit electric generating station near Joppa, Illinois, and to supply a substantial portion of electric energy requirements of a project of the Atomic Energy Commission (AEC) near Paducah, Kentucky. The common stock of Electric is held by the following companies (sponsoring companies) in the percentages specified: Central Illinois Public Service Company, 20%; Illinois Power Company, 20%; Kentucky Utilities Company, 20%; and Union, 40%.

The facilities in question are the line terminal devices of a 161 kv line owned and operated by Union and extending from EEI's Joppa plant to an interconnection with Union's transmission system near Cape Girardeau, Missouri about 40 miles away. Union constructed this line in 1962 to facilitate the transmission of its share of Joppa's surplus energy over AEC's requirements into its own transmission system. The sponsoring companies are entitled to surplus power from the Joppa plant over and above that required to meet the contract requirements of AEC. In the past few years AEC has drastically reduced its demand on the output of the Joppa plant. Originally this demand was 735,000 kw of the 1,000,000 kw of the plant's capacity. Effective July 1, 1964, AEC reduced this demand by 175,000 kw and reduced it further by 325,000 kw effective June 15, 1966. These reductions of AEC's demand increased the capacity available to the sponsoring companies from 265,000 kw to 765,000 kw. Union presently owns certain terminal facilities located on the property of EEI which heretofore have been utilized for the principal benefit of Union but due to the increase in energy available to the sponsoring companies will now be used for the benefit of the other sponsoring companies as well as Union. As a result of this change in the function of these terminal facilities Union agreed to sell the terminal facilities to EEI. The consideration for the transfer is $226,927 which equals the depreciated original cost thereof as of June 15, 1966.

According to the application the proposed sale of the terminal facilities will give ownership and control to EEI of all facilities on its property required for the sale of power generated at the Joppa plant, and will place it in a uniform position with respect to the get-away facilities of all its customers. Union represents that it will benefit from the transaction because it will no longer have to bear the expense of operating and maintaining facilities required by

EEI to serve Union's 306,000 kw entitlement after June 15, 1966, and will be in the same position as all other customers of EEI.

Written notice of the application has been given to the Missouri Public Service Commission, the Illinois Commerce Commission, the Iowa State Commerce Commission and to the Governors of those States. Notice of the application was also published in the Federal Register on July 12, 1966 (31 F.R. 9466), stating that any person desiring to be heard or to make any protest with reference to the application should on or before July 25, 1966, file with the Federal Power Commission, Washington, D.C. 20426, a petition or protest. No petition or protest or request to be heard in opposition to the granting of the application has been received.

The Commission finds:

(1) Union, a corporation, owns and operates facilities for the transmission and sale at wholesale of electric energy which is generated in the State of Missouri and consumed in the States of Iowa and Illinois, all of which facilities are in addition to, and do not include, facilities used for the generation of electric energy or facilities used in local distribution or solely for the transmission of electric energy consumed wholly by the transmitter. Union, therefore, is a public utility within the meaning of that term as used in Section 203 of the Federal Power Act.

(2) EEI, a corporation, owns and operates facilities for the transmission and sale at wholesale of electric energy which is generated in the State of Illinois and consumed in the States of Kentucky and Missouri, all of which facilities are in addition to, and do not include, facilities used for the generation of electric energy or facilities used in local distribution or solely for the transmission of electric energy consumed wholly by the transmitter. EEI, therefore, is a public utility within the meaning of that term as used in Section 203 of the Federal Power Act.

(3) By the proposed transaction, Union will dispose of part of its facilities, subject to the jurisdiction of the Commission which have a value in excess of $50,000 and EEI, in acquiring such facilities, will merge or consolidate its facilities, subject to the jurisdiction of the Commission with those of Union, another person, all within the meaning and subject to the requirements of Section 203 of the Federal Power Act.

(4) The proposed sale of facilities by Union and the proposed acquisition of these facilities by EEI, as described above, upon the terms and conditions set forth in the application and subject to the provisions of this order will be consistent with the public interest as expressed in Section 203 of the Federal Power Act.

(5) The period of public notice given in this matter is reasonable.

The Commission orders:

(A) The proposed sale by Union and the proposed acquisition by EEI of the aforementioned facilities, all as described above, are authorized and approved upon the terms and conditions and for the purposes set forth in the application subject to the provisions of this order.

(B) The Applicants shall record the proposed transaction herein authorized and the facilities and properties referred to above as provided in the Commission's Uniform System of Accounts Prescribed for Public Utilities and Licensees.

(C) This authorization shall expire unless the transaction herein authorized and approved is consummated within 90 days from the date of issuance of this order.

(D) The foregoing authorization is without prejudice to the authority of this Commission or any other regulatory body with respect to rates, service, accounts, valuations, estimates or determinations of cost, or any matter whatsoever now pending or which may come before this Commission or any other regulatory body and nothing herein shall be construed as an acquiescence by this Commission in any estimate or determination of cost or any valuation of property claimed or asserted.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

UNITED GAS PIPE LINE COMPANY, DOCKET NO. CP66-363

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 15, 1966)

On May 12, 1966, United Gas Pipe Line Company (Applicant) filed in Docket No. CP66-363 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities to be utilized for the sale and delivery of additional quantities of natural gas to Beacon Oil and Refining Company (Beacon), an industrial customer, as more fully set forth in the application.

Applicant proposes the replacement of minor metering, regulating and appurtenant facilities near Milepost 9.85 on its 6-inch Henderson, Texas, pipeline, located in the John Runnels Survey, Abstract 679, Rusk County, Texas.

Applicant is presently delivering an annual volume of approximately 90,000 Mcf of gas to Beacon for use in Beacon's lease operations in Henderson Field, Rusk County, Texas, under the budget authorization granted by order of the Commission issued in Docket No. CP66-52 on October 1, 1965, 34 FPC 1065, and pursuant to a contract between the parties which is on file with the Commission as Applicant's Industrial Contract No. 712. By the instant application, Applicant proposes to transport and deliver to Beacon up to 1,000 Mcf of gas per day. The estimated annual delivery is 350,000 Mcf which exceeds the limitation of 100,000 Mcf per year contained in the Docket No. CP66-52 order.

The estimated cost of the facilities to be constructed is $4,195, which will be financed out of current working funds.

Due notice of the filing of the application was published in the Federal Register on May 27, 1966 (31 F.R. 7648). No petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on August 11, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, United Gas Pipe Line Company, a Delaware corporation having its principal place of business in Shreveport, Louisiana, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of January 20, 1942, in Docket No. G-216 (3 FPC 3).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding are to be used in the transportation and delivery of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof and the proposed transportation and delivery of natural gas by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities and the proposed transportation and delivery of natural gas by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (b) and (c) of Section 155.1 and paragraphs (a), (b), (c)(1), (c)(3), (c)(4) and (e) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Applicant, United Gas Pipe Line Company, to construct and operate the proposed facilities and to transport and deliver up to 1,000 Mcf of natural gas per day as hereinbefore described, all as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (b) and (c) of Section 155.1 and paragraphs (a), (b), (c)(1), (c)(3), (c)(4) and (e) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be constructed and placed in actual operation and the transportation and delivery of natural gas authorized in paragraph (A) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within 90 days from the date on which this order issues.

(D) This certificate shall not entitle the industrial customer to whom firm deliveries are authorized herein to any priorities to additional gas for meeting any future increases in its requirements at the expense of firm resale customers desiring to acquire additional gas to meet any future increases in their requirements.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

UNITED GAS PIPE LINE COMPANY, DOCKET NO. CP66–392

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 15, 1966)

On May 26, 1966, United Gas Pipe Line Company (Applicant) filed in Docket No. CP66–392 an application pursuant to Section 7(c) of the Natural

Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and the transportation and delivery of natural gas to Columbian Carbon Company (Columbian) for use by the latter in its Research Plant, Ouachita Parish, Louisiana, all as more fully set forth in the application in this proceeding.

Specifically, Applicant proposes to construct and operate a positive meter station and appurtenant facilities on its Jackson-Sterlington line in Ouachita Parish. The application indicates that Columbian's third year maximum day and annual requirements from Applicant are 1,000 Mcf and 328,500 Mcf, respectively. Columbian will utilize natural gas as fuel for steam engine boilers and for process heating and drying.

Applicant and Columbian have entered into a contract, dated April 26, 1966, providing for the proposed sale of gas. The average rate for gas sold to Columbian under such contract is estimated to be 25.2 cents per Mcf.

Total estimated cost of the proposed facilities is $5,220, which cost will be financed out of current working funds.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on August 11, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, United Gas Pipe Line Company, a Delaware corporation having its principal place of business in Shreveport, Louisiana, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of January 20, 1942, in Docket No. G-216 (3 FPC 3).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are to be used in the transportation and delivery of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof and the proposed transportation and delivery of natural gas by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities and the proposed transportation and delivery of natural gas by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(3), (c)(4) and (e) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Applicant, United Gas Pipe Line Company, to construct and operate the proposed facilities and to transport and deliver natural gas as hereinbefore described, all as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(3), (c)(4) and (e) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be constructed and placed in actual operation and the transportation and delivery of natural gas authorized in paragraph (A) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, by October 1, 1966.

(D) This certificate shall not entitle the industrial customers to whom firm deliveries are authorized herein to any priorities to additional gas for meeting any future increases in its requirements at the expense of firm resale customers desiring to acquire additional gas to meet any future increases in their requirements.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

UNITED NATURAL GAS COMPANY, DOCKET NO. CP66-414

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 15, 1966)

On June 14, 1966, United Natural Gas Company (Applicant) filed in Docket No. CP66-414 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain underground storage facilities at the Ellisburg Storage Pool in Potter County, Pennsylvania, all as more fully set forth in the application.

Applicant proposes to inject an additional 2,900,000 Mcf of Base Storage Gas and add a 1,000 horsepower compressor unit at its Ellisburg Compressor Station. Applicant states that the additional base gas and horsepower will increase its deliverability from the present 14,000 Mcf per day to 32,000 Mcf per day. Applicant further states that the proposed facilities are needed to meet the peak day requirements of its wholesale and retail customers beginning with the 1966-1967 winter season.

The total estimated cost of the proposed additional base gas is $1,100,000, and the construction of the proposed additional 1,000 horsepower compressor unit is estimated to cost $400,000. The reimbursable joint cost, payable to Tennessee Gas Pipeline Co., a division of Tenneco Inc., and Consolidated Gas Supply Corporation, joint owners of the Ellisburg Storage Pool, is $61,100 raising the total cost of the project to Applicant to $1,561,100. Applicant proposes to finance this project from funds on hand and from funds to be obtained by issuing notes and for stock at face or par value to its parent corporation, National Fuel Gas Company.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on August 11, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, United Natural Gas Company, a Pennsylvania corporation having its principal place of business in Oil City, Pennsylvania, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of March 30, 1943, in Docket No. G-328 (3 FPC 959).

(2) The proposed construction and operation of facilities and the transportation of natural gas in interstate commerce, as hereinbefore described and as more fully described in the application and exhibits filed in this proceeding are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed construction and operation of facilities and the transportation of natural gas are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, United Natural Gas Company, authorizing the construction and operation of facilities and the transportation of natural gas in interstate commerce, as hereinbefore described, all as more fully described in the application and exhibits filed in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) Applicant shall complete construction of the additional compressor horsepower as well as the injection of additional base storage gas by December 1, 1966, as provided in paragraph (b) of Section 157.20 of the Commission's Regulations.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

VALLEY GAS TRANSMISSION, INC., DOCKET NO. CP66-410

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 15, 1966)

On June 9, 1966, Valley Gas Transmission, Inc. (Applicant) filed in Docket No. CP66-410 an application pursuant to Section 7(c) of the Natural Gas

Act, as implemented by Section 157.7(b) of the Regulations under the Act, for a certificate of public convenience and necessity authorizing the construction during the twelve-months period commencing with the date on which this order issues and the operation of certain natural gas facilities to enable Applicant to take into its certificated main pipeline system natural gas which will be purchased from producers thereof, all as more fully set forth in the application in this proceeding.

The purpose of this "budget-type" application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system supplies of natural gas in various producing areas adjacent with said system.

Applicant requests waiver of the cost limitations imposed by Section 157.7 (b)(1) of the Commission's Regulations under the Act so that it may be afforded greater flexibility in attaching reserves without delays resulting from the processing of individual certificate applications. The total cost of the proposed facilities will not exceed $250,000, with no single project to exceed a cost of $50,000, which costs will be financed from cash on hand, cash generated from normal operations, internal sources and from financing already arranged.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on August 11, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Valley Gas Transmission, Inc., a Texas corporation having its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of December 29, 1960, in Docket No. G-19618 (25 FPC 233).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Applicant should submit within 60 days after the expiration of the authorization granted hereinafter, a statement in compliance with Section 157.7(b)(3) of the Commission's Regulations under the Natural Gas Act.

(6) Public convenience and necessity require that the certificate hereinafter issued and the rights granted thereunder be conditioned upon Applicant's

compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e) and (f) of Section 157.20 of said Regulations.

(7) The authorization hereinafter granted should be limited to construction during the twelve-months period commencing with the date on which this order issues and the total expenditures for facilities to be constructed thereunder should be limited to a maximum of $250,000, with no single project to exceed a cost of $50,000.

(8) Good cause has been shown for waiver of the cost limitations imposed by Section 157.7(b)(1) of the Commission's Regulations under the Natural Gas Act.

The Commission orders:

(A) Upon the terms and conditions of this order, a certificate of public convenience and necessity is issued authorizing Applicant, Valley Gas Transmission, Inc., to construct during the twelve-months period commencing with the date on which this order issues the proposed facilities hereinbefore described, as more fully described in the application in this proceeding, and to operate such facilities only to take natural gas supplies from producers who have received authorization from the Commission to sell natural gas to said Applicant.

(B) Applicant shall submit within 60 days after the expiration of the authorization granted by paragraph (A) above a statement in compliance with Section 157.7(b)(3) of the Commission's Regulations under the Natural Gas Act.

(C) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e) and (f) of Section 157.20 of said Regulations.

(D) The authorization granted in paragraph (A) above is limited to construction during the twelve-months period commencing with the date on which this order issues and the total expenditures for facilities to be constructed thereunder are limited to a maximum of $250,000, with no single project to exceed a cost of $50,000.

(E) Applicant's request for waiver of the cost limitations imposed by Section 157.7(b)(1) of the Commission's Regulations under the Natural Gas Act is granted.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

ARKANSAS LOUISIANA GAS COMPANY, DOCKET NOS. G-4438 AND CP66-395

ORDER AMENDING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND CANCELLING DOCKET NUMBER

(Issued August 16, 1966)

On May 31, 1966, Arkansas Louisiana Gas Company (Petitioner) filed in Docket No. G-4438 a petition to amend the certificate of public convenience and necessity issued in said docket on October 18, 1956, and amended on April 9, 1963, and January 4, 1966, 35 FPC 17, so as to reflect the deletion of fourteen wells located in the Ruston Field, Lincoln Parish, Louisiana, from its service agreement with Southwest Gas Producing Company, Inc. (Southwest), all as more fully set forth in the petition to amend.

As a part of the instant filing, in Docket No. CP66-395, pursuant to Section 7(b) of the Natural Gas Act, Petitioner has requested permission and approval to abandon that portion of its natural gas service which is delivered from the above-described fourteen wells to Southwest under Petitioner's FPC Gas Rate Schedule XFS-3. In view of the aforementioned petition to amend, Petitioner's filing in Docket No. CP66-395 will be construed as coinciding therewith and accordingly, Docket No. CP66-395 will be cancelled.

Petitioner proposes to continue to sell and deliver natural gas to Southwest under Rate Schedule XFS-3 from other wells covered by the contract which are not connected to Petitioner's gathering system.

On September 23, 1963, Petitioner submitted for filing the Sixth Revised Sheet No. 60 to its FPC Gas Tariff, Original Volume No. 2, containing proposed increased rates for sales to Southwest. By order issued October 30, 1963, the proposed increases in rates were suspended in Docket No. RP64-6, and by order issued August 18, 1964, in Docket No. RP64-6 the proposed increased rates were made effective subject to refund as of June 24, 1964. The authorization hereinafter granted in Docket No. G-4438 should not be construed as relieving Petitioner from refunding any amounts collected in excess of the rates determined to be just and reasonable in Docket No. RP64-6.

Due notice of the filing of the petition was published in the Federal Register on June 17, 1966 (31 F.R. 8507). No protest, petition to intervene, or notice of intervention has been filed in this proceeding.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the certificate of public convenience and necessity issued in Docket No. G-4438 on October 18, 1956, be further amended as hereinafter ordered.

The Commission orders:

(A) The certificate of public convenience and necessity issued to Arkansas Louisiana Gas Company in Docket No. G-4438 on October 18, 1956, and amended by orders issued on April 9, 1963 and January 4, 1966, is further amended by deleting therefrom authorization to operate and sell natural gas in interstate commerce from fourteen wells located in Ruston Field, Lincoln Parish, Louisiana, as hereinbefore described and as more fully described in the petition to amend.

(B) In all other respects said certificate, as amended, shall remain in full force and effect.

(C) Docket designation CP66-395 is cancelled.

(D) The authorization herein granted in Docket No. G-4438 shall not be construed to relieve Petitioner from refunding any amounts collected in excess of the rates determined to be just and reasonable in Docket No. RP64-6.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

SHELL OIL COMPANY

ORDER DENYING APPLICATION FOR REHEARING

(Issued August 16, 1966)

Shell Oil Company (Shell) on July 28, 1966, filed an application for rehearing of the letter-order issued by the Commission on July 1, 1966. That order affirmed the rejection by letter dated April 5, 1966, of the rate reduction supplements tendered on February 16, 1966, by Shell with respect to its FPC Gas Rate Schedule Nos. 16, 33, 34, 40, 41 and 95 in purported compliance with the provisions of paragraph (E) of Opinion No. 468, 34 FPC 159, as amended.

Shell's proposed supplements reflect rates at the "new" gas-well gas area base rate ceilings determined in Opinion No. 468, as amended. All of the acreage involved here was dedicated under contracts dated prior to 1961, and sales under each of these rate schedules were certificated and deliveries had commenced prior to January 1, 1961. Shell contends, however, that it is entitled to the "new" gas rate, in lieu of the "old" gas rate, because it is now selling gas from the subject acreage under renegotiated amendatory agreements which superseded the original contracts and allegedly were executed after January 1, 1961.

Under Opinion No. 468, as amended, gas sold pursuant to contracts dated prior to January 1, 1961, is considered "old" gas. It is thus clear that gas sold from acreage dedicated under the original contracts involved here is "old" gas. "Old" gas does not become "new" gas solely because the original contracts have been superseded by amendatory agreements. We therefore reject Shell's contention that its gas is "new" gas.

In view of our ruling above, there is no need to discuss the question raised by Shell as to the date of the amendatory agreements which is similar to that involved in Opinion No. 484, 35 FPC 40, in connection with a sale by Socony.

Shell also contends in the alternative that the Commission's rejection of the proposed supplements constitutes a prejudgment of the outcome of the Show Cause proceeding instituted against Shell and others by order issued August 5, 1965, in Docket No. AR61-1, *et al.*, 34 FPC 424. Shell presumably is referring to the Section 4(e) proceedings involving the subject rate schedules which were not consolidated in Opinion No. 468 and are therefore included in the show cause order. The Section 5(a) determinations made in Opinion No. 468, to be effective as of September 1, 1965, apply, *inter alia*, to Shell's sales involved here. The effect of such Section 5(a) action was to create locked-in periods prior to September 1, 1965, for those Section 4(e) proceedings relating to sales in Permian not disposed of by Opinion No. 468. The action taken by us here relates to the Section 5(a) determinations made in Opinion No. 468. It does not purport to cover the non-consolidated Section 4(e) proceedings and thus does not involve prejudgment of the issues involved in such proceedings.

The Commission orders:

For the reasons set forth above, the application for rehearing filed by Shell on July 28, 1966, is denied.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

NORTHERN NATURAL GAS PIPELINE COMPANY, DOCKET NO. CP66–307; NORTHERN NATURAL GAS COMPANY, DOCKET NO. CP66–308; SINCLAIR OIL & GAS COMPANY (OPERATOR), ET AL., DOCKET NO. CI66–410

ORDER DENYING APPLICATION FOR REHEARING

(Issued August 17, 1966)

On July 18, 1966, Brooks Gas Corporation (Brooks) and Brooks Pipe Line Co. (a wholly owned subsidiary) applied, pursuant to Section 19(a) of the Natural Gas Act and Section 1.34 of the Commission's Rules of Practice and Procedure for rehearing and reconsideration of a temporary certificate issued to Sinclair Oil & Gas Company (Sinclair) by the Commission's letter–order of May 19, 1966, as amended June 17, 1966, 35 FPC 754, 1046.

Brooks contends that the Commission erred in issuing a temporary certificate to Sinclair. Brooks alleges that since Sinclair "must accept status as a pipeline" as a condition of receiving the temporary certificate it was improper to grant such a certificate on the basis of considerations applicable to producers as specified in Section 157.28 of the Commission's Regulations under the Natural Gas Act.

At the outset, it may be noted that in its application for a temporary certificate dated March 18, 1966, Sinclair in addition to stating that it was being drained stated that its gas wells in the Eldorado and Ft. McKavitt Fields which initially will supply gas to the Eldorado Processing Plant are presently shut-in and shut-in royalties are being paid monthly. In short, Sinclair sets forth the prima facie facts constituting an emergency within the meaning of Section 157.28 of the Regulations, including economic hardship resulting from payment of shut-in royalties, as well as potential drainage.

Brooks has attached an affidavit to its application for rehearing challenging the possibility that drainage exists or will occur. Brooks contends that if any temporary service should be performed in the Eldorado Field it should be performed by *Brooks* and not Sinclair, since the former already has a pipeline in the Eldorado Field serving Northern Natural Gas Company (Northern). It is apparent that Brooks is resisting any certification of Sinclair to sell gas from the Eldorado Field to any purchaser other than Brooks either on a temporary or permanent basis.

Finally Brooks contends that it is entitled to resolution of the factual dispute it has raised concerning drainage on a complete record after hearing, before drainage is made the basis for the exercise of the Commission's jurisdiction to grant a temporary certificate "to a would-be competitor."

We can briefly dispose of the contention that Sinclair must "accept status as a pipeline", a contention which is clearly in error. Paragraph 6 of the letter–order dated June 17, 1966, merely provides that Sinclair should amend its application to request authorization for the construction and operation of facilities necessary for the transportation of gas in order to make the requested sales. No determination can be made prior to the hearing, which has been separately ordered, as to whether the ownership of these facilities would make Sinclair a pipeline within the meaning of our Rules.

Brooks goes on to argue that nothing in the Natural Gas Act or in the Commission's Regulations provides any authority for permission to grant temporary certificate for construction of pipeline facilities on the basis of drainage or a claim of drainage. This contention, however, overlooks the fact that the temporary authorization runs to Sinclair as a *producer*, and the Commission is not precluded from granting an otherwise justified temporary authorization to Sinclair as an independent producer merely because pipeline facilities are required to make the emergency sale. As the court pointed out in *Public Service Commission* v. *F.P.C.*, 327 F. 2d 893, "it was necessary for the Commission to adjust its emergency criteria to the nature of gas production rather than to the nature of gas transportation. We assume Congress contemplated from the beginning that the Commission's jurisdiction extended to independent producers, although it set forth no clear criteria to govern the issuance of temporary certificates to them. But we are not required to assume also that it contemplated limiting such certificates to pipelines, even if the restrictive language of Section 7 applies only to pipelines. No provision in the Act is to the effect that temporary certificates may be issued only to pipelines; and Section 16, certainly when read with Section 7, supports their issuance to independent producers under emergency conditions defined by Regulation § 157.28(c)."

The allegations contained in Sinclair's application for a permanent certificate clearly indicate the necessity for facilities to transport the gas to its processing plant. The Commission has authorized producers to construct and operate any required facilities subject to the jurisdiction of the Commission, *i.e.*, facilities which will be used for the transportation of gas in interstate commerce and which are subject to the requirements of subsections (c) and (e) of Section 7 of the Natural Gas Act. See, *Hassie Hunt Trust*, 33 FPC 866, *Standard Oil Company of California*, 27 FPC 1153, and *The Superior Oil Company*, 32 FPC 241.

With respect to Brooks' contention that it is entitled to a resolution of the factual dispute "on a complete record" as to drainage, we believe that Brooks misconceives the authority of the Commission to issue temporary certificates under the Natural Gas Act and the nature of the Commission's Regulation 157.28(c) implementing that authority. As the Court of Appeals held in *Public Service Commission* v. *F.P.C.* (*supra*) upholding the validity of the Regulation, "the power to issue temporary certificates is not limited to facilities to assure maintenance of adequate service or to serve particular customers." The Court further indicated that the problems placed under Commission administration, with consequent Commission responsibilities, call upon the courts to give the Act a scope reasonably necessary to permit the agency to perform its tasks consistently with the provisions and purposes of the legislation. In that case, there was, *inter alia* a challenge to the failure of the Commission to determine the period of emergency in the certificate; nevertheless, the Court held that since temporary authorizations may validly be issued to independent producers it is not unreasonable for the Commission to continue them in effect until, considering its administrative problems it can cope with the particular cases on the basis of records which enable it to do so intelligently. Finally, the Court upheld the authority of the Commission to have adopted Regulation 157.28(c).

To demand, as Brooks does, a trial on the issue of drainage, is in effect to destroy the very purpose of the emergency certificate provisions of the Natural Gas Act. While it is true that temporary certificates are issued on the basis of *ex parte* statements of fact contained in applications for such emergency certificates,[1] it is apparent that the Commission could adopt no reasonable alternative to accepting a prima facie statement of the nature of the emergency and, as indicated above, its regulation as to the facts which spell out emergency situations has been sustained. To grant the trial of an issue such as drainage in advance of formal hearing would destroy any viable administrative basis for issuing temporary authorizations due to an emergency. As Judge Fahy pointed out, Section 16 of the Natural Gas Act demonstrates a realization by Congress that the Commission would be confronted with unforeseen problems of administration, including emergencies, and it should have a basis for coping with such confrontation.

To evaluate the affidavit submitted in support of Brooks' application for rehearing would in turn require an invitation to Sinclair to submit a *counter* affidavit.[2] Both affidavits being submitted *ex parte*, nothing short of a trial could fairly resolve the issue—and, as indicated above—would not merely create a problem of administration but would, in effect, emasculate the Commission's emergency authority.

Finally, the application for rehearing overlooks the allegation of economic hardship set forth in Sinclair's request for a temporary certificate. The Commission's Regulation recognizes that emergencies may include, drainage, economic hardship resulting from the payment of shut-in royalties, etc. These different bases for an emergency certificate are set forth as *alternative* possibilities and, we feel that the temporary certificate issued to Sinclair can be sustained on either one of the two bases alleged in its application. Even if, arguendo, Brooks were entitled to a factual determination on the question of drainage, Sinclair's alternative ground of economic hardship resulting from the payment of shut-in royalties would be sufficient to justify the grant of a temporary certificate. Consequently, we find that there is no basis for rescinding the temporary certificate issued to Sinclair or for setting a hearing on the issue of drainage as requested by Brooks.

We have given this case and the many pleadings relating thereto the most careful consideration throughout the various stages through which it has progressed. Nothing in the present application persuades us that we were in error in granting the temporary certificate rather than in taking the only alternative which was before us on June 11, 1966—namely, a denial of any temporary resolution of the problem. We realize that Brooks on rehearing now attests its willingness to itself arrange for the temporary transportation of the gas involved in the application on terms which allegedly would remove the temporary emergency. This belated offer cannot negate the effectiveness of our earlier determination. Even if Brooks had made a timely offer, we would not be compelled to maintain its position of sole purchaser in the Eldorado Field for the period of the temporary authority since we have made clear that Sinclair is constructing its facilities at its own risk.

These proceedings have been set for early hearing and the determination we have made to issue a temporary certificate will not prejudice or predetermine the final outcome of the proceedings. In the event the final determination of the proceedings is adverse to Sinclair then it will have to bear the loss of the investment it has made in facilities.

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[1] Section 7(c) of the Act explicitly provides that the Commission "may issue a temporary certificate * * * without notice or hearing, pending the determination of an application for a (permanent) certificate * * *".

[2] Skelly Oil Company has filed a pleading in response to the application for rehearing indicating that if given a chance, it could and would file pleadings factually disputing Brooks on the drainage question.

The Commission orders:

The instant application by Brooks having been considered as an application for rehearing is hereby denied; and further considered as an application for a formal hearing on the factual basis for the issuance of the temporary certificate to Sinclair is likewise denied.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

PACIFIC GAS AND ELECTRIC COMPANY, PROJECT NO. 2106

ORDER APPROVING REVISED PROJECT EXHIBIT K AND ADJUSTING ANNUAL LAND CHARGES

(Issued August 17, 1966)

On April 12, 1965, Pacific Gas and Electric Company, licensee for major Project No. 2106, filed for Commission approval a revised Exhibit K map showing the present project boundaries. The project is located on the McCloud and Pit Rivers in Shasta County, California, and affects lands of the United States within the Shasta-Trinity National Forest.

The revised Exhibit map shows an addition of 98.82 acres of lands included within the project boundary, of which 6.32 acres are National Forest lands required for the project spillway, and 12.52 acres are National Forest lands required for construction purposes. The inclusion in the license of the additional lands of the United States will increase the amount of annual charges for the occupancy of such lands.

By letter dated March 21, 1966, the Chief, Forest Service, advised that it offers no objection to Commission approval of the revised Exhibit K map. In a subsequent letter from the Service, dated June 22, 1966, we are advised that the licensee was conducting exploratory drilling for the revised left abutment of the Iron Canyon dam on the National Forest lands herein involved in January, 1965. In view of the date of such occupancy, we are making the increased annual land charges effective as of January 1, 1965.

The Commission finds:

(1) Revised Exhibit K-4A (FPC No. 2106-62) conforms to the Commission's rules and regulations and should be approved as part of the license for Project No. 2106, and license Exhibit K-4A (FPC No. 2106-49) which is superseded, should be eliminated from the license for the project.

(2) The increased amount of annual charges for recompensing the United States for the occupancy of its lands by the project is reasonable as hereinafter fixed and specified.

The Commission orders:

(A) The revised Exhibit K map described in finding (1) above is hereby approved as part of the license for Project No. 2106, and the license exhibit described in the same finding as being superseded is hereby eliminated from the license for the project.

(B) Subparagraph (ii) of Article 28 of the license is hereby modified to read as follows:

(ii) For the purpose of recompensing the United States for the use, occupancy, and enjoyment of its lands, exclusive of those used for transmission line purposes only, $2,671.95, effective as of January 1, 1965.

(C) This order shall become final 30 days from the date of its issuance unless application for rehearing shall be filed as provided in Section 313(a) of the Act, and failure to file such an application shall constitute acceptance of this order. In acknowledgment of the acceptance of this order, it shall be signed for the licensee and returned to the Commission within 60 days from the date of issuance of this order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

PACIFIC POWER & LIGHT COMPANY, PROJECT NO. 2082

ORDER APPROVING REVISED PROJECT EXHIBIT L DRAWINGS

(Issued August 17, 1966)

On March 7, 1966, Pacific Power & Light Company, licensee for the Klamath Basin Project No. 2082, located on the Klamath River, California and Oregon, filed for Commission approval revised Exhibit L drawings showing the "as built" modifications to the Iron Gate development of the project.

The modifications were authorized by Commission order issued July 14, 1965, 34 FPC 65, which called for the construction of a terminal structure at the Iron Gate spillway to dissipate the energy of a peak flood, and the raising of the dam crest by five feet to increase the capability of the Iron Gate development to pass safely larger flood flows. The drawings also reflect minor changes in the original designs in the structures involved resulting from structural and foundation conditions observed during construction of the modifications. The revised plans shown on the drawings have been reviewed and found to be satisfactory.

The Corps of Engineers has reported that the revised drawings of the project structures are satisfactory insofar as the interests of navigation are concerned.

The Commission finds:

The following-described revised Exhibit L drawings conform to the Commission's rules and regulations and should be approved as part of the license for the project, and the license Exhibit L drawings mentioned herein as being superseded should be eliminated from the license:

IRON GATE DEVELOPMENT

Exhibit L sheet No.	FPC No.	Title	Superseding FPC No.
L-10A revised	2082-178	Dam crest modifications	2082-174
L-15A revised	2082-179	Spillway modifications	2082-175

The Commission orders:

The revised Exhibit L drawings described in the above finding are hereby approved as part of the license for Project No. 2082, and the license Exhibit L drawings mentioned in the same finding as being superseded are hereby eliminated from the license.

OPINION NO. 504

T. L. JAMES & COMPANY, INC., ET AL., DOCKET NOS. G–16492, G–18361, G–18408, RI62–193, RI66–172; T. L. JAMES & COMPANY, INC., G–18362, G–18409, RI66–173; CRESCENT DRILLING COMPANY, INC., G–17688, G–18410, RI61–287; CRESCENT PRODUCTION COMPANY, INC., ET AL., G–17678, G–17685, G–20514, RI61–414; HARWAY PRODUCERS, INC., G–17676, G–17694, G–20515, RI61–415; JAMES MUSLOW, ET AL., G–17602; J. S. RUSHING, G–17696; SAM SKLAR (OPERATOR), ET AL., G–17697; AUSTIN E. STEWART, ET AL., G–17699; J. C. TRAHAN (OPERATOR), ET AL., G–17698, G–18274, G–18323; MISSISSIPPI RIVER FUEL CORPORATION (NOW NATURAL GAS AND OIL CORP.), G–17715; H. T. SHALETT AND DAVID CROW, RI60–393; DAVID CROW, TRUSTEE, ET AL., G–17714, RI60–355; DAVID CROW, TRUSTEE, G–17669; THE HUNTER COMPANY, INC., G–17543; L. E. SMITH, ET AL., G–17679, RI60–356; CYPRUS OIL COMPANY (OPERATOR), ET AL., G–17533; TIDEWATER OIL COMPANY (OPERATOR), ET AL., G–17599; TIDEWATER OIL COMPANY, G–17668; WILLARD E. WALKER, G–17662; TED WEINER, ET AL., G–17670; AUSTRAL OIL COMPANY INCORPORATED, G–20289;[1] NICKLOS OIL & GAS COMPANY (OPERATOR), ET AL., G–20290[1]

OPINION AND ORDER MODIFYING AND ADOPTING INITIAL DECISION OF PRESIDING EXAMINER DETERMINING TAX REIMBURSEMENTS AND PROVIDING FOR REFUNDS

(Issued August 17, 1966)[*]

Syllabus

1. Although Commission has authority to interpret provisions in gas sales contracts filed as rate schedules, policy is to defer action on contract questions when matters are submitted promptly to state courts for resolution. P. 465.
2. Since producers have failed during six to eight year period of controversy to initiate action in state court, there is no justification for Commission to further defer interpretation of contracts filed as rate schedules. P. 465.
3. Where producers and pipeline have no dispute over interpretation of tax reimbursement and their agreement will terminate litigation, Commission accepts and gives effect to such agreement since it otherwise has no precedential effect. PP. 466, 480, 481.
4. Where there is no contractual requirement for pipeline to reimburse producers-sellers for any part of severance tax, motion to dismiss is sustained and filings for increase in tax reimbursement are disallowed. P. 477.
5. In a proceeding arising under Section 4 of the Natural Gas Act, Commission *determines* amount of tax reimbursement and *provides* for refunds.

J. P. Hammond, *William H. Emerson* and *William P. Hardeman* for Pan American Petroleum Corporation

Kenneth Heady, *John R. Rebman* and *Stanley L. Cunningham* for Phillips Petroleum Co.

J. Evans Attwell for Austral Oil Company Incorporated, H. S. Cole, Jr., *et al.* and Nicklos Oil & Gas Company (Operator), *et al.*

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[1] These dockets were severed and terminated after conclusion of the hearing by order issued March 14, 1966, 35 FPC 385.

[*] Initial decision appears on p. 467.

W. H. Drushel, Jr. for Austral Oil Company Incorporated and Nicklos Oil & Gas Company

Sherman S. Poland and *Bernard A. Foster, Jr.* for Arkansas Louisiana Gas Company

William T. Kilbourne and *Herbert W. Varner* for The Superior Oil Co.

Charles E. McGee and *John T. Ketcham* for Sinclair Oil & Gas Company

William W. Bedwell for Mississippi River Transmission Corp.

H. H. Hillyer, Jr. and *R. M. Merriman* for R. R. Frankel

Christopher T. Boland, George Meiburger, Robert O'Koch and *William E. Feldhaus* for Texas Gas Transmission Corporation

Hugh J. Morgan, Jr. for Southern Natural Gas Company

Jack D. Head, Joseph F. Weiler and *Keith M. Pyburn* for Texas Eastern Transmission Corporation

J. Harry Mulhern, Edward S. Kirby and *James R. Lacey* for Public Service Electric & Gas Co. of New Jersey

William J. LeBuhn and *Leland F. Cadenhead* for Trunkline Gas Company

Robert W. Maris and *William T. Coleman, Jr.* for Philadelphia Gas Works, Division of the United Gas Improvement Company

Morton L. Simons for Long Island Lighting Company

James O'Malley, Jr., Ronald D. Jones and *Leon A. Allen, Jr.* for Consolidated Edison Company of New York, Inc.

Thomas B. Barnes, Jr., V. P. McDevitt, Samuel G. Miller, Henry Sullivan and *Donald Blanken* for Philadelphia Electric Company

F. Ben James, Jr. for T. L. James & Company, Inc.

John W. Williams for the Staff of the Federal Power Commission

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Carl E. Bagge.

BAGGE, *Commissioner:*

This case, which comes before us on exceptions to the initial decision of the presiding examiner issued May 4, 1966, involves basically the issue of what amount of tax reimbursement, if any, is owing by four pipeline purchasers of natural gas[2] to the eighteen producer-sellers of natural gas listed in the caption, under the terms of various types of provisions in the parties' contracts setting forth their respective obligations for paying production, severance and gathering taxes enacted by the State of Louisiana. The case was initiated by the filing by the producers of proposed increased rates reflecting the amounts of tax reimbursement they claim from the pipeline purchasers. We permitted such increased rates to become effective subject to refund, and thereafter, by order issued July 22, 1965, [unreported] provided for a hearing on the dispute over the proper amount of tax reimbursement. After pre-hearing conferences, a one-day hearing was held on January 4, 1966.

The above issue arises from the fact that a Louisiana gathering tax of 1 cent per Mcf enacted in 1954, and increased to 2 cents in 1958, was challenged as unconstitutional under the Louisiana constitution. Pending court decision on the question, the Louisiana legislature, effective December 1, 1958, suspended the 2-cent gathering tax and increased the severance tax by a like amount. This Louisiana tax legislation was intended to assure the continuance of revenues pending determination of the lawfulness of the gathering tax. In 1959, in *Bel Oil Corp.* v. *R. W. Fontenot, Collector of Revenue*, 117 So. 2d 571, the Louisiana Supreme Court held that the gathering tax was invalid under the State Constitution.

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[2] The pipelines are Southern Natural Gas Company (Southern), Mississippi River Transmission Corporation (Mississippi), Trunkline Gas Company (Trunkline), and Transcontinental Gas Pipe Line Corporation (Transco).

The action of the state legislature has given rise to various arguments by the producers on the one hand in favor of larger tax reimbursements from the pipelines, and by the pipelines on the other hand, favoring smaller or no tax reimbursements. The arguments vary, depending on the particular terms of the several contractual provisions.

In his decision, the examiner discussed the several contractual provisions in ten separate categories, and determined that various or no amounts of tax reimbursement are due by the pipelines to the producers under the contracts, as more fully set forth in his decision. Three sets of exceptions were filed to his decision by staff, Southern, and jointly by David Crow, Trustee, *et al.*, L. E. Smith, *et al.*, and H. T. Shalett and David Crow, challenging the examiner's decision in only a few respects.

We have considered the examiner's decision and exceptions thereto with care and have concluded that such decision is correct in all material respects and should be adopted as our decision, except for one matter which should be modified as discussed hereinbelow.

Considering first a preliminary matter, producers David Crow, Trustee, L. E. Smith, H. T. Shalett and David Crow (Docket Nos. G–17714, RI60–355, G–17679, RI60–356 and RI60–393) contend that the present controversy involves a matter of contract interpretation which they intend to submit to the courts of Louisiana, and argue that such courts are competent to resolve such contract disputes while the FPC is not. They ask that this Commission, in order to avoid a possible conflict with the court's decision, find that it has no power to construe a Louisiana gas contract.

Staff and Southern in their opposing exceptions contend that it is basic law that, since the parties' contracts are also their FPC rate schedules, the Commission may properly interpret them to determine their correct application, citing such authorities as *Shell Oil Co.* v. *F.P.C.*, 263 F. 2d 223 (CA3–1959), rev., *sub nom.*, *Texas Gas Transmission Corp.* v. *Shell Oil Company*, 363 U.S. 263, aff'd on remand, 292 F. 2d 149; *The Pure Oil Co.* v. *F.P.C.*, 299 F. 2d 370 (CA7–1962); *Shell Oil Co.* v. *F.P.C.*, 334 F. 2d 1002 (CA3–1964); *Pan American Petroleum Corp.* v. *F.P.C.*, 322 F. 2d 999 (CADC–1963). Staff and Southern also point out that these producers originally took the position that the Commission could properly interpret the contracts to determine their correct application as rate schedules.

Under these judicial decisions we have authority to interpret provisions in the parties' contracts filed with us as rate schedules. It is our general policy, however, to defer action on such contract questions when these matters are submitted promptly to the state court for resolution.[3] The producers have failed during the six to eight year period of the subject controversy to initiate action in state court. We find no justification at this late date for us further to defer action herein.

The principal objection to the examiner's decision comes from Southern, one of the pipeline purchasers under several of the contracts. Southern excepts to the examiner's holding that The Hunter Company is entitled, under the provisions of its contract with Southern involved in Docket No. G–17543, to reimbursement of 1.5 cents for the 2-cent severance tax made effective by the Louisiana legislature as of December 1, 1958 (this 2-cent tax was additional to a previously existing 0.3-cent severance tax). Southern takes the position, with which the Commission's staff agrees, that instead of 1.5 cents per Mcf tax reimbursement, under the pertinent provisions of the contract Hunter is entitled to only 0.75 cents per Mcf tax reimbursement.

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[3] See *Pan American Petroleum Corporation, et al.*, Docket No. RI63–481, *et al.*, orders issued October 9 and December 3, 1964, 32 FPC 966, 1394.

Southern reasons that on the date of the 1954 Hunter-Southern contract, the total amount of taxes in effect on the production, severance or gathering of gas was 1.3 cents (0.3 cent severance tax and 1-cent gathering tax). It states that when the severance tax was increased by 2 cents per Mcf by the Louisiana legislature effective December 1, 1958, the total amount of taxes in effect on the production, severance or gathering of gas became 2.3 cents, an increase of 1 cent over the taxes in effect on the date of the Hunter-Southern agreement. Southern points out that its contract with Hunter quoted below clearly states that "in the event * * * the total amount of all taxes payable * * * in respect of the production, severance or gathering of gas delivered hereunder shall be increased above the total amount of such taxes as the same are in effect on the date of this agreement, then three-fourths (¾) of such increase shall be payable by Buyer and one-fourth (¼) of such increase shall be payable by Seller, and the party who shall pay such increase shall be entitled to reimbursement from the other party in the proportion set forth above." Consequently, says Southern, Hunter is entitled to reimbursement from Southern for ¾ths of the 1-cent increase in the total amount of all taxes payable—*i.e.*, to tax reimbursement from Southern of 0.75 cent per Mcf, not 1.5 cents per Mcf, as claimed by Hunter and found by the examiner.

Staff reaches the same result as Southern with respect to Southern's tax reimbursement obligations to Hunter under the contractual provision referred to above.

We are in agreement with Southern and staff on this issue. It seems clear that under the express language of the contract quoted above, when the severance tax was increased by 2 cents per Mcf by the Louisiana legislature effective December 1, 1958, Southern was obligated to pay ¾ths of the 1-cent increase in taxes over the 1.3 cents tax base in effect on the date of the contract. Accordingly, the correct amount of tax reimbursement is 0.75 cent per Mcf, as contended by Southern and staff.

Finally, staff excepts to the examiner's approval of agreements by producers and Transco in six dockets,[4] to the effect that the tax reimbursement to be paid by Transco is 1.75 cents per Mcf. Staff says that the proper amount is 1.5 cents since the contract provisions are similar to those in Arkansas Louisiana's contract with Austin E. Stewart, G-17699, which the examiner found call for 1.5 cents tax reimbursement. Staff contends that agreement by buyer and seller on the amount of tax reimbursement is not binding on the Commission, which has primary jurisdiction to make such determination.

It is noted that, while the contract provisions are similar, they are not identical. Neither the producers nor Transco have disputed the interpretation of this provision, thus their agreement will terminate further litigation on this subject. Since it otherwise has no precedential effect, we will accept and give effect to such agreement. Accordingly, we will affirm the examiner on this issue.

The Commission finds:

(1) The initial decision of the presiding examiner issued in this case on May 4, 1966 should be modified as hereinabove set forth and as so modified should be adopted by the Commission as of the date of issuance of this opinion.

(2) Except to the extent hereinabove granted, the exceptions filed to the examiner's decision should be denied.

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[4] David Crow, Trustee, G-17669; Cyprus Oil Company (Operator), *et al.*, G-17533; Tidewater Oil Company, G-17668; Tidewater Oil Company (Operator), *et al.*, G-17599; Willard E. Walker, G-17662; and Ted Weiner, *et al.*, G-17670.

The Commission orders:

(A) The producer-sellers of natural gas whose filings for increased rates are the subject of the examiner's decision issued herein on May 4, 1966, and of this opinion, will refund with applicable interest to the date of payment, all tax reimbursements collected by them from the pipeline-purchasers in excess of the amounts determined herein and in the examiner's decision to be properly reimbursable by the respective purchasers of such natural gas under the applicable rate schedules.

(B) The producer-sellers of natural gas referred to in paragraph (A) above shall within 60 days from the date of issuance of this opinion, file new supplements for the periods involved, where appropriate, reflecting the amounts of tax reimbursement determined herein and in the examiner's decision to be properly reimbursable to them by the pipeline-purchasers of natural gas.

(C) The initial decision of the presiding examiner issued herein on May 4, 1966, is modified as above set forth and as so modified is adopted by the Commission as its decision in this case, effective as of the date of issuance of this opinion. Exceptions to the examiner's decision are denied except to the extent hereinabove set forth.

INITIAL DECISION

OF THE PRESIDING EXAMINER UPON FILINGS INVOLVING CHANGES IN RATES UNDER THE NATURAL GAS ACT RESULTING FROM ACTS OF THE LEGISLATURE OF THE STATE OF LOUISIANA LEVYING AND ASSESSING TAXES UPON THE SEVERANCE AND GATHERING OF NATURAL GAS

(Issued May 4, 1966)

FRAZEE, *Presiding Examiner:* Each of the respondents in this proceeding filed a notice of a change in rates under Section 4 of the Natural Gas Act. The proposed rates were suspended because of conflicting interpretations between the respective sellers and the purchasers regarding tax reimbursement provisions in the producers (Sellers) rate schedules for jurisdictional sales of natural gas in Louisiana. The controversies originate in the action of the Louisiana State Legislature suspending the collection of a two cents per Mcf gas gathering tax and increasing the gas severance tax by an equal amount—two cents per Mcf—both effective on December 1, 1958.

In an order issued July 22, 1965, the Commission consolidated into a single proceeding all of the controversial rate schedules and fixed a date for hearing for the limited purpose of resolving the conflicting interpretations of the tax reimbursement provisions of these rate schedules.

Arkansas Louisiana Gas Company (Ark-La), Southern Natural Gas Company (Southern Natural), Mississippi River Transmission Corporation (MRTC), Trunkline Gas Company (Trunkline), Transcontinental Gas Pipe Line Corporation (Transco), Texas Gas Transmission Corporation (Texas Gas), Philadelphia Electric Company (Phila), Public Service Electric and Gas Company (Public Service), Philadelphia Gas Works Division of The United Gas Improvement Company (Phila Gas Works), and the Pennsylvania Public Utility Commission (Penn PUC) were permitted to intervene.

Prehearing conferences were held on September 8, 1965 and October 8, 1965. The formal hearing was convened and concluded on January 4, 1966. At the September 8, 1965, prehearing conference the Staff, for the convenience of all parties, offered Exhibit No. 1 which contains verbatim extracts of the applicable tax reimbursement provisions of respondents' rate schedules, including a list for each of the various verbatim extracts showing the purchaser of the gas,

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[1] Omitted—See Footnote 1, *supra*, p. 463.

the respondent or respondents having the same contract tax reimbursement provisions, the docket numbers and respondents' rate schedule numbers involved herein, and the dates of the various contracts. Exhibit Nos. 2 through 7 and Exhibit No. 9 contain stipulations between various parties indicating their interpretations in cents per Mcf of gas of the various amounts of tax reimbursement due under the rate schedules here under consideration. No other evidence was received and there was no testimony of witnesses. The entire matter was submitted in the briefs of the parties.

LOUISIANA SEVERANCE AND GATHERING TAXES

A chronological background on the State of Louisiana's taxation of natural resources reads as follows:

1. Section 21 of Article 10 of the Louisiana Constitution of 1921, as amended, provides in part: "Taxes may be levied on natural resources severed from the soil or water, to be paid proportionately by the owners thereof at the time of severance; * * * No severance tax shall be levied by any Parish or other local subdivision of the State."

"No further or additional tax or license shall be levied or imposed upon oil, gas or sulphur leases or right, nor shall any additional value be added to the assessment of land, by reason of the presence of oil, gas or sulphur therein or their production therefrom * * *"

2. Act No. 24 of the Second Extra Session of 1935 levied 0.2 cents per Mcf severance tax on natural gas.

3. Act No. 119, Section 2, Para. No. 8, of the 1936 session, approved by the Governor on July 6, 1936, increased the gas severance tax to 0.3 cents per Mcf.[2]

4. Act. No. 11 of the 1948 session, approved by the Governor on June 7, 1948 (L.R.S. 47:671, et seq.) levied a gas gathering tax of 1.0 cent per Mcf.[3]

5. Act No. 45 of the 1954 session, approved by the Governor on June 22, 1954, sought to amend the definiton of the term "gathering tax" so as to impose the payment of the gathering tax on the producer rather than on the pipeline purchaser of the gas.

6. Act No. 8 of the 1958 session, approved by the Governor on June 16, 1958, levied an additional 1.0 cent per Mcf gathering tax[4] to become effective on August 1, 1958, and continuing through and including July 31, 1960.

7. Act No. 3 of the Extra Session of 1958, suspended the 2.0 cents per Mcf of gas gathering tax effective on December 1, 1958, pending a determination of its constitutionality. (L.R.S. 47:671, *et seq.*, and 47:678, *et seq.*)

8. Act No. 2 of the Extra Session of 1958, increased the gas severance tax from 0.3 cent per Mcf to 2.3 cents per Mcf effective December 1, 1958. (L.R.S. 47:632, *et seq.*)

A court test of the constitutionality of Act No. 3 of the Extra Session of 1958 was instituted in the matter of the *Bel Oil Corporation, et al.* v. *Rufus W. Fontenot, Collector of Revenue,* (1959) 238 La. 1002, 117 So. 2d 571, to recover the gas gathering taxes collected under its provisions. There the Court said:

> The statute providing for the levy of the tax here sought to be recovered declares, in part, that "In addition to all other licenses and taxes levied and assessed in the State of Louisiana, there is hereby levied upon every

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[2] The rate of this tax remained unchanged until December 1, 1958. The Act was amended, however, to change the volumes on which the tax should be computed.

[3] Since this tax was levied on the gatherer of the gas, it normally would be paid by the pipeline purchasing the gas.

[4] This brought the total gathering tax to 2.0 cents per Mcf of gas. Act No. 11, 1948 session levied 1.0 cent and Act No. 8, 1958 session levied 1.0 cent for a total of 2.0 cents per Mcf.

> person engaged in gathering gas produced in this state, an excise license or privilege tax, for the privilege of engaging in such business, at the rate of one cent (1¢) per thousand (1,000) cubic feet * * * of gas gathered" (R.S. 47:671), and defines "gathering gas" to mean "transporting gas, after its severance, from the well to the first meter at or near the well" (R.S. 47:673, as amended by Act 45 of 1954, Sec. 1).

Then, at page 573, the Court went on to say:

> We think that under the clear language of the Constitution, "No further or additional tax or license shall be levied or imposed upon oil, gas or sulphur leases or right," no room for doubt is left; the levy under attack is another tax upon gas leases or rights, and as such comes squarely under the quoted prohibition. In fact, although denominated a "gas gathering" tax, the levy covers a process which forms an integral part of severing the natural resource or reducing it to possession,[8] and as such must be struck down, since the Legislature has levied the severance tax authorized by Article 10, Section 21; see R.S. 47:631-646, titled the General Severance Tax.
>
> [8] Following adoption of the Constitution of 1921 the Legislature, by its Act 140 of 1922, levied a tax upon all natural resources severed from the soil, in terms referring to Section 21 of Article 10. In a suit involving an attack on the constitutionality of the said Act 140 as exceeding the rate of State taxation on property fixed by Section 3 of Article 10 of the Constitution, this Court observed that "A severance tax, even though it is measured by the value of the property severed, is not a property tax; it is an excise tax upon the privilege of severing; just as an inheritance tax, even though measured by the value of the property inherited, is not a property tax, but an excise tax, on the right of inheriting." *Gulf Refining Co. of Louisiana* v. *McFarland,* 154 La. 251, 255, 97 So. 433, 434, 264 U.S. 573, 44 S. Ct. 402, 68 L. Ed. 856.

Thus, the Supreme Court of Louisiana determined the Gas Gathering Tax to be unconstitutional. To the same effect see *Southern Natural Gas Company* v. *Robert L. Roland, Collector of Revenue for the State of Louisiana,* (1960) 240 La. 471, 123 So. 2d 891.

Following the approval on June 16, 1958 of Act No. 8 of the Louisiana Legislature the Federal Power Commission on July 11, 1958, in the *Louisiana State Gas Gathering Tax*, etc., 20 FPC 28 issued its Order No. 206 "Modifying Rules and Regulations with Respect to Supplements Reflecting the Addition to the Louisiana State Gas Gathering Tax" in which it was recognized that "The incidence of such tax may result in increases in the rates paid by the purchasers under all rate schedules governing sales of natural gas produced in Louisiana, subject to the jurisdiction of the Commission, which contain provisions whereby the buyer is to reimburse the seller for any portion of such additional tax. * * *"

The Commission then said "To simplify the proposed required changes in rates, the Commission deems it expedient and in the public interest to waive the 30-day notice requirement under Section 4(d) of the Act and Section 154.94 of the Commission's Regulations and to eliminate, to the extent feasible, the data and information thereby required to be submitted in support of any proposed changes in rate based upon said Act No. 8, to be effective August 1, 1958." and provided in its order that "Rate Schedule changes reflecting the incidence of the additional one cent (1¢) per Mcf gathering tax of the State of Louisiana as of August 1, 1958, if filed on or before August 1, 1958, may be filed on less than the 30 days' notice required by Section 4(d) of the Natural Gas Act and in accordance with the findings of this order."

[1] The facts necessary to a determination of the issues in these matters are not in controversy and were stipulated by the producers, L. E. Smith, *et al.*, Docket Nos. G-17679 and RI60-356 (Rate Schedule No. 1), Exhibit No. 2; David Crow, Trustee, *et al.*, Docket Nos. G-17714 and RI60-355 (Rate Schedule No. 2), Exhibit No. 3; H. T. Shalett and David Crow, Docket No. RI60-393 (Rate Schedule No. 1), Exhibit No. 4, and Southern Natural Gas Company, the purchaser.

Each of the foregoing producers' sales to Southern Natural involves basically the same factual situation, each producer, on different dates,[5] entered into contracts with Southern Natural providing for the sale of natural gas produced from fields in Louisiana. On the dates these contracts were executed the Louisiana severance tax was 0.3 cent per Mcf and the Louisiana gathering tax was 1.0 cent per Mcf.

Act No. 8 of the 1958 session of the Louisiana Legislature levied an additional gas gathering tax of 1.0 cent per Mcf effective August 1, 1958.

Then by Act No. 3 of the Extra Session of 1958 the Legislature suspended the 2.0 cents per Mcf gas gathering tax, effective December 1, 1958, until its constitutionality could be determined. At the same session, by Act No. 2, the gas severance tax was increased by 2.0 cents, effective December 1, 1958, to a total of 2.3 cents per Mcf. The suspended 2.0 cents per Mcf gas gathering tax was declared unconstitutional in *The Bel Oil* case, *supra*. The severance tax of 2.3 cents per Mcf has remained in effect since December 1, 1958.

The tax reimbursement provisions in the Smith (Exhibit No. 2), Crow (Exhibit No. 3) and Shalett and Crow (Exhibit No. 4) contracts with Southern Natural are identical.[6] Article 8 (Taxes) therefrom follows:

> Seller shall be obligated for the payment of all taxes now existing or hereafter levied while this agreement is in effect upon the production, severance or gathering or gas delivered hereunder. Buyer shall be obligated to reimburse Seller for all taxes now or hereafter levied while this agreement is in effect upon the gathering of gas delivered hereunder up to not exceeding the present rate of such tax, viz., one cent ($0.01) per Mcf, plus one-half of the amount per Mcf by which such gathering tax may hereafter exceed one cent ($0.01) per Mcf. * * *.

Smith, Crow, and Shalett and Crow, each entered into "Stipulation of Facts" which were received as the foregoing Exhibits. Paragraph 9 of each Stipulation states that each party:

> "* * * interprets said tax reimbursement provisions as providing that Southern will reimburse" Seller "for 1.5¢ of the increased 2.3¢ Louisiana severance tax which became effective December 1, 1958 * * *"

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[5] See table below:

	Date executed	Exhibit No.
Southern Natural's contract with:		
Smith	Apr. 3, 1957	2
Crow	July 29, 1955	3
Shalett and Crow	July 20, 1955	4

[6] Each of the producers (Sellers) entered into "Stipulation of Facts," which were received as the above numbered Exhibits. Para. 8 of each of these "Stipulation of Facts" recites that Staff's Exhibit No. 1, pp. 23–24, correctly sets forth the tax reimbursement provisions in each of the foregoing contracts.

and that

> "* * * Southern interprets said tax reimbursement provisions as providing that Southern will reimburse" Seller "for no portion of said 2.3¢ Louisiana severance tax."

On December 29, 1958 and April 29, 1960, Smith filed a Section 4 rate increase reflecting the claimed 1.5 cents tax reimbursement. The filings in Docket Nos. G-17679 and RI60-356 were suspended but became effective, subject to refund (See Exhibit No. 2, p. 3).

On December 29, 1958 and April 25, 1960, Crow filed a Section 4 rate increase reflecting the claimed 1.5 cents tax reimbursement. The filings in Docket Nos. G-17714 and RI60-355 were suspended but became effective, subject to refund (See Exhibit No. 3, p. 3).

On May 13, 1960, Shalett and Crow filed a Section 4 rate increase reflecting the claimed 1.5 cents tax reimbursement. This filing in Docket No. RI60-393 was suspended but became effective, subject to refund (see Exhibit No. 4, p. 3).

Thus, each of the Sellers, *supra*, claims a tax reimbursement of 1.5 cents per Mcf of the 2.3 cents per Mcf severance tax under their contract with Southern Natural. Southern Natural claims it owes no part of said 2.3 cents per Mcf severance tax to the Sellers, *supra*.

The producers (Sellers) filed joint briefs in which they contend that the "prices" payable per Mcf of gas which the Buyer agreed to pay Sellers is clearly set out in the contracts (See Article 7, p. 23, Exhibit No. 1) at 9.90 cents and that, in addition, the Buyer agreed to reimburse Sellers the amount of the tax levied upon "gathering of gas * * * up to but not exceeding the present rate of such tax, *viz.*, one cent per Mcf, plus one-half of the amount per Mcf by which such gathering tax may hereafter exceed one cent per Mcf." (See Article 8, pp. 23-24, Exhibit No. 1). With this contention there is no disagreement.

Next the producers contend they are entitled to, what they term, a "realizable price" of 9.60 cents per Mcf. Their contention is that at the time the contracts were executed they were required to pay a Louisiana severance tax of 0.3 cent per Mcf and a gathering tax of one cent per Mcf. Therefore, they contend, for example, at p. 3 of their brief, that the buyer was obligated to pay:

> 9.90¢+1.0¢ or 10.90¢ per Mcf
> (Articles 7 and 8, pp. 23-24, Exhibit No. 1)

and, Sellers further contend, of this 10.90 cents per Mcf, they should "realize":

> 10.90¢ −1.3¢ or 9.60¢ per Mcf.

Their argument is that the 9.60 cents per Mcf was the "cause of the contracts" (consideration) and that, if they are required to pay additional taxes then the contracts are void for want of consideration. This contention fails to follow the terms of the contracts which they executed for the reason that Article 8 (Taxes) unequivocally modifies Article 7 (Price) in the event there is any increase in the production or severance taxes. Any such increase is unmistakably the obligation of the producer (Seller) and diminishes his original "realizable price" by the amount of the tax increase. Here the increase is 2.0 cents per Mcf in the severance tax.

It is therefore concluded the 2.0 cents per Mcf increase in the severance tax is the obligation of and must be paid by the producers (Sellers).

[2] The Hunter Company, Inc. (Hunter), in Docket No. G-17543 (Rate Schedule No. 1) Exhibit No. 5, sells gas to Southern Natural under a contract

dated January 8, 1954.[7] The tax reimbursement provisions of its contract (See pp. 26–27, Exhibit No. 1) differs from the three contracts for sales to Southern Natural which have been considered in [1] above, hence it requires separate consideration.

The applicable tax reimbursement provisions in Hunter's gas sales contract with Southern Natural are as follows:

> Seller shall be obligated for the payment of all taxes levied while this agreement is in effect upon the production or severance of gas delivered hereunder up to an amount equal to the aggregate of all such taxes as in effect on the date of this agreement. Seller shall also be obligated for the payment of five-eighths (⅝) and Buyer shall be obligated for the payment of three-eighths (⅜) of all taxes levied on the gathering of gas delivered hereunder up to an amount equal to the aggregate of all such taxes as in effect on the date of this agreement. In the event, at any time while this agreement shall be in effect, the total amount of all taxes payable by either Seller or Buyer imposed upon or in respect of the production, severance or gathering of gas delivered hereunder shall be increased above the total amount of such taxes as the same are in effect on the date of this agreement, then three-fourths (¾) of such increase shall be payable by Buyer and one-fourth (¼) of such increase shall be payable by Seller, and the party who shall pay such increase shall be entitled to reimbursement from the other party in the proportions set forth above.

Hunter and Southern Natural stipulated as to the pertinent facts and the contentions of each party (Exhibit No. 5). Hunter contends it, as Seller, is entitled to reimbursement of 1.5 cents (which is ¾ths of the 2.0 cents increase in the severance tax) effective December 1, 1958. Southern Natural, as Buyer, interprets the contract as requiring it to reimburse Seller for 0.75 cent (which is ¾ of one cent, this being its portion of one-half of the 2.0 cents increase in the severance tax) of the 2.3 cents per Mcf severance tax.

On December 17, 1958, Hunter filed a Section 4 rate increase reflecting the claimed 1.5 cents tax reimbursement. This filing was suspended but became effective, subject to refund (Exhibit No. 5, p. 3).

By its interpretation of the Hunter contract, Southern Natural would avoid any reimbursement on 1.0 cent of the 2.0 cents per Mcf increase in the Louisiana severance tax. Southern Natural is either obligated to reimburse Hunter for ⅜ths of the first 1.0 cent (0.375¢) and ¾ths of the second 1.0 cent (0.75¢) of the increase in the severance tax of 2.0 cents per Mcf which became effective on December 1, 1958, for a total of 1.125 cents; or it is obligated to reimburse Hunter for the full ¾ths (1.5¢) of the total 2.0 cents increase.

The initially levied 1.0 cent per Mcf gathering tax was "suspect" *ab initio* and it was paid under protest. *Bel Oil Corp.* v. *Fontenot, supra*, p. 572, see n. 6, regarding the order of the trial court directing refunds of the payments made under protest during the period from November 10, 1954 to August 1, 1958; see also *Southern Natural Gas Company* v. *Roland, supra*, p. 892, where the court said, "[1] Having paid under protest taxes assessed against it by the State of Louisiana under the authority of L.R.S. 47:671, *et seq.* (generally referred to as the gas gathering tax statute) the plaintiff, Southern Natural Gas Company, instituted this action * * * to compel the Collector of Revenue to refund the taxes so paid * * *" Southern Natural was awarded a judgment by the trial court for its taxes paid under protest.

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[7] By an agreement dated January 8, 1954, Hunter agreed to sell and Southern Natural agreed to purchase natural gas produced by Hunter from Spider Field, Louisiana, pursuant to the terms and provisions of a contract dated February 13, 1953 between C. H. Lyons, Sr., *et al.* and Southern Natural.

It must be assumed all parties to the contract were aware of the provisions of Section 21 of Article 10 of the Louisiana Constitution of 1921, as amended, expressly prohibiting the levying of any tax on the gathering of natural gas. The trial court in the *Bel Oil* case, *supra*, quite emphatically held any tax on the gathering of natural gas to be "* * * void under the language * * *" of the constitutional provision. Hence, the provision was, at least, "suspect" when written into the contract. Therefore, when the Louisiana Collector of Revenue was directed in the *Southern Natural* case, *supra*, to make refunds to Southern Natural of the tax on the gathering of gas—⅜th of 1.0 cent, or 0.375 cent per Mcf—this order of the Louisiana Supreme Court eliminated the tax base of 1.3 cents per Mcf as being the total amount of taxes in effect on the date of the contract; thus, there remained but 0.3 cent per Mcf tax in effect on that date.

It is therefore concluded that Southern Natural is obligated to and must reimburse Hunter for ¾ths, or 1.5 cents per Mcf of the 2.0 cents per Mcf increase in the severance tax.

[3] The Mississippi River Fuel Corporation (Mississippi), in Docket No. G-17715 (Rate Schedule No. 11) Exhibit No. 6, sells natural gas to Southern Natural under its Rate Schedule No. 11. The tax reimbursement provisions of its contract (see pp. 28-31, Exhibit No. 1) differs from the four preceding contracts for sales to Southern Natural which have been considered in [1] and [2], *supra*. Therefore it requires separate consideration.

The applicable tax reimbursement provisions in Mississippi's gas sales contract with Southern Natural are as follows:

> ### ARTICLE 7
>
> (Payment and Reimbursement of Taxes)
>
> Seller shall pay the Louisiana severance tax imposed by Act 449 of 1950, RS 47:633 and the Louisiana gas gathering tax imposed by Act 11 of 1948, as amended by Act 45 of 1954, RS 47:671-677, upon gas delivered hereunder. Buyer shall reimburse Seller for said gathering tax, which reimbursement is included in the prices provided in Section 1 of Article 6.
>
> With respect to taxes upon or with respect to the production, severance, handling, gatherings, sale or delivery (up to and including the point of delivery of gas to Buyer hereunder) of gas delivered hereunder and any other taxes of a similar nature or equivalent effect which are measured by the volume, value or sales price of such gas (all of which are herein called "taxes"), Seller shall be and remain obligated for taxes up to 1.3¢ per Mcf. With respect to any amount of taxes which may hereafter be in effect in excess of an aggregate of 1.3¢ per Mcf, Buyer shall be liable for ¾ and Seller shall be liable for ¼ of such excess.

Mississippi and Southern Natural stipulated as to the pertinent facts and the contentions of each party (Exhibit No. 6). Mississippi contends it, the Seller, is entitled to reimbursement of 1.75 cents of the 2.3 cents severance tax which became effective on December 1, 1958, (Exhibit No. 6, p. 3) while Southern Natural, the Buyer, interprets the contract as requiring it to reimburse Seller for 0.75 cents of the 2.3 cents severance tax (Exhibit No. 6, p. 3).

Mississippi, on January 2, 1959, filed a Section 4 rate increase reflecting the claimed 1.75 cents tax reimbursement. This filing was suspended but became effective, subject to refund (Exhibit No. 6).

In Article 6 (Price) of the contract executed by Seller and Buyer (Exhibit No. 1, pp. 29–30) "* * * Buyer agrees to pay Seller for each Mcf of gas delivered * * * prices which will include reimbursement of Seller in the amount of 1.0 cent per Mcf for the payment of gathering taxes provided for in Article 7 * * *" Then it was further agreed in Article 7 (Payment and Reimbursement of Taxes) that "Seller shall pay the Louisiana severance tax * * * and the Louisiana gathering tax * * *" and that "* * * Buyer shall reimburse Seller for said gathering tax, which reimbursement is included in the prices provided in Section 1 of Article 6." Then it was further provided in Article 7 (Payment and Reimbursement of Taxes) that "With respect to * * * any other taxes * * * Seller shall be and remain obligated for taxes up to 1.3 cents per Mcf. With respect to any amount of taxes which may hereafter be in effect in excess of an aggregate of 1.3 cents per Mcf, Buyer shall be liable for ¾ and Seller shall be liable for ¼ of such excess." (Exhibit No. 1, p. 7).

The 1.0 cent gathering tax was determined to be unconstitutional; Buyer is therefore not obligated to reimburse Seller for the amount of this tax. Seller and Buyer agreed that Seller shall be and remain obligated for taxes up to 1.3 cents per Mcf. The total of all taxes levied against the gas amounts to 2.3 cents per Mcf.

Therefore, it is concluded that Mississippi is obligated for and must pay the first 1.3 cents per Mcf tax and that Southern Natural is obligated to and must reimburse Mississippi for ¾th of the remaining 1.0 cent per Mcf tax, or 0.75 cent per Mcf.

[4] The Crescent Drilling Company, Inc. (Crescent), in Docket Nos. G–17688, G–18410 and RI61–287 (Rate Schedule No. 2), Exhibit No. 1, p. 1, and the T. L. James & Company, Inc. (James), in Docket Nos. G–18409 and RI66–173 (Rate Schedule No. 6), Exhibit No. 1, p. 1, make sales of natural gas from their Louisiana production to the Arkansas Louisiana Gas Company (Ark-La). The tax reimbursement provisions in these contracts are set out in Exhibit No. 1, pp. 2 and 3. When the 2.0 cents per Mcf Louisiana gathering tax was suspended and the severance tax of 0.3 cent was increased by 2.0 cents per Mcf, each effective December 1, 1958, Crescent and James each filed a Section 4 rate increase reflecting their claimed 1.667 cents per Mcf tax reimbursement. Each filing was suspended but became effective after the statutory suspension period, subject to refund.

Under the terms of Section 7 (Taxes) (B)(1) of the contracts:

> Seller shall bear any and all severance and production taxes, and taxes of a similar nature or equivalent effect, up to the total amount of all such taxes levied under the statutes of the State of Louisiana as of January 1, 1956. If from time to time the total amount of such tax or taxes exceeds the amount thus to be borne by Seller, the amount of the excess shall be borne by Buyer and by Seller in the respective proportions stipulated in the Contract Tax Ratio defined in Section 1.

The tax reimbursement provision, *supra*, of the contracts state "Seller shall bear any and all severance * * * taxes * * * up to the total amount * * * levied * * * as of January 1, 1956." The severance tax levied to January 1, 1956, was 0.3 cent per Mcf. The Sellers, Crescent and James, were obligated under the terms of the contracts to pay the severance tax. Then, to permit a determination of its constitutionality, the Legislature suspended the 2.0 cents per Mcf gathering tax and levied an additional 2.0 cents per Mcf severance tax. This brought the total severance tax to 2.3 cents per Mcf. The tax reimbursement provision of the contracts, *supra*, provides "If from time to time the total amount of such tax or taxes exceeds the amount" of 0.3 cent "to be borne by

Seller,"—Crescent and James—"the amount of such excess"—all in excess of the 0.3 cent per Mcf—"shall be borne by Buyer"—Ark-La—"and by Seller"—Crescent and James—"in the respective proportions stipulated in the Contract Tax Ratio defined in Section 1." The Contract Tax Ratio refers to the apportionment of certain taxes in the proportion of two-thirds (⅔) to be paid by the Buyer and one-third (⅓) by the Seller (Exhibit No. 1, p. 1, n. 1).

Since the gathering tax was determined to be unconstitutional and void *ab initio* in the *Bel Oil* case, *supra*, it no longer can be considered an obligation of either party under the contract. The Court, in the *Bel Oil* case, *supra*, as well as the *Southern Natural* case, *supra*, ordered refunds of the gathering taxes which had been paid under protest. Since the gathering tax was void *ab initio*, there existed only the 0.3 cent severance tax on January 1, 1956. This was the base upon which the additional 2.0 cents per Mcf severance tax was to be added when it became effective on December 1, 1958.

The tax reimbursement provisions of the Crescent and the James contracts with Ark-La, *supra*, are therefore construed as requiring the Sellers, Crescent and James, to pay one-third (⅓), or 0.667 cents and the Buyer, Ark-La, to pay two-thirds (⅔), or 1.333 cents per Mcf of the 2.0 cents per Mcf increase in the severance tax.

[5] James and other producers entered into additional contracts to sell other Louisiana production to Ark-La. These contracts contain different tax reimbursement provisions from those considered above. (Exhibit No. 1, pp. 6, 7 and 8). The James contract in Docket No. G–16492 (Rate Schedule No. 1); the Crescent Production Company, Inc., *et al.*, in Docket No. G–17685 (Rate Schedule Nos. 1[8] and 8); the Harway Producers, Inc., in Docket No. G–17694 (Rate Schedule No. 8), J. S. Rushing in Docket No. G–17696 (Rate Schedule No. 1) and Sam Sklar in Docket No. G–17697 (Rate Schedule No. 2) contain identical tax reimbursement provision as set forth in Exhibit No. 1, pp. 6, 7 and 8.

The Crescent Production Company (Crescent) in Docket Nos. G–17678 and G–20514 (Rate Schedule Nos. 10 and 11), Exhibit No. 1, pp. 4 and 5; the Harway Producers, Inc. (Harway) in Docket Nos. G–17676 and G–20515 (Rate Schedule No. 1), Exhibit No. 1, p. 5; and T. L. James & Company, Inc. (James) in Docket Nos. G–18408 and RI62–193 (Rate Schedule No. 4), Exhibit No. 1, p. 5 make sales of natural gas from their Louisiana production to the Mississippi River Fuel Corporation (Mississippi) under contracts which contain the same tax reimbursement provisions as the above sales to Ark-La.

Each of the foregoing producers making sales to Ark-La and Mississippi filed Section 4 rate increases reflecting their claimed tax reimbursement. These filings were suspended but, after the statutory suspension period, became effective subject to refund.

The tax reimbursement provisions of the foregoing contracts provide, as shown on pages 6 and 7 of Exhibit No. 1, the "Seller shall pay * * * all existing severance * * * taxes * * * and Buyer shall pay all existing gathering * * * taxes." The existing 0.3 cent severance tax was paid by the Sellers, and the existing 1.0 cent gathering tax was paid by the Buyers, Ark-La and Mississippi. On August 1, 1958, an additional 1.0 cent gathering tax was levied. However, the total 2.0 cents gathering tax was suspended and the severance tax was increased by a levy of 2.0 cents per Mcf, each effective on December 1, 1958.

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[8] Under this rate schedule, Crescent filed for a tax reimbursement of one (1.0) cent per Mcf. (Exhibit No. 8, ln. 3). Under this rate schedule the severance tax increase was but one (1.0) cent per Mcf instead of 2.0 cents per Mcf. This one (1.0) cent per Mcf increase in the severance tax was applicable to wells classified as "incapable" by the Louisiana Department of Revenue. Crescent claims full reimbursement. Under the terms of the contract, Crescent, the Seller, is obligated to pay one-third (⅓), or 0.333 cent per Mcf and Ark-La is obligated to pay two-thirds (⅔), or 0.667 cent per Mcf, effective December 1, 1958.

The tax reimbursement provisions further provide that "any increase in * * * severance, gathering * * * taxes * * * in addition to or greater than those being levied * * * on the date" of the execution of the contract "* * * are hereafter * * * referred to as an additional tax" and "such additional tax * * * shall be paid and borne one-third by Seller and two-thirds by Buyer." The Sellers contend that the only "additional" tax levied was the 1.0 cent gathering tax levied by Act No. 2 of the Louisiana Legislature of 1958. The Buyers contend, since there was in existence on December 1, 1958 a 0.3 cent severance tax, the 2.0 cents per Mcf increase in the severance tax levied by Act No. 2 and effective December 1, 1958, is an "additional tax" under the terms of the contract.

The gathering tax of 2.0 cents was determined to be void *ab initio* and unconstitutional in *Bel Oil* and *Southern Natural*, *supra*, and refunds ordered for those gathering taxes which had been paid under protest. Thus, the only existing tax was on the severance of the gas and the tax provisions of the contracts provide that "any increase," which is interpreted to mean "any addition to," must, therefore, be added to the existing 0.3 cent severance tax. This was the base upon which the 2.0 cents additional severance tax was added when it became effective on December 1, 1958.

Therefore, the tax reimbursement provisions in the foregoing contracts, *supra*, are construed as requiring the Sellers to pay one-third (⅓), or 0.667 cents per Mcf and the Buyers, Ark-La and Mississippi, to pay two-thirds (⅔), or 1.333 cents per Mcf of the 2.0 cents per Mcf increase in the severance tax effective December 1, 1958.

[6] The Crescent Production Company, Inc., *et al.* (Crescent) in Docket Nos. G–17685 and RI61–414 (Rate Schedule Nos. 3, 4, 5 and 7) Exhibit No. 1, pp. 9–11; Harway Producers, Inc. (Harway) in Docket Nos. G–17694 and RI61–415 (Rate Schedule Nos. 2, 3, 4, 6 and 7) Exhibit No. 1, pp. 9–11; and T. L. James & Company, Inc., *et al.* (James) in Docket Nos. G–18361 and RI66–172 (Rate Schedule No. 5) and in Docket Nos. G–18362 and RI66–173 (Rate Schedule No. 7) Exhibit No. 1, pp. 9–11, make sales of natural gas from their Louisiana production to the Arkansas Louisiana Gas Company (Ark-La). The tax reimbursement provisions in these contracts are set forth in Exhibit No. 1, pp. 10 and 11. When the 2.0 cents per Mcf Louisiana gathering tax was suspended and the severance tax of 0.3 cent was increased by 2.0 cents, each effective on December 1, 1958, each producer filed Section 4 rate increases reflecting their claimed 0.5 cent per Mcf tax reimbursement. Each filing was suspended but became effective after the statutory suspension period, subject to refund.

The tax reimbursement provisions in these contracts provide, as set out in Exhibit No. 1, pp. 10 and 11:

> (A) The price which Buyer shall pay hereunder to Seller for each one thousand (1,000) cubic feet of gas on the basis of measurement and calculations hereinbefore provided shall be:
>
> (1) During the first two years next following the effective date hereof $0.11021;
>
> (2) During the next two years of the term hereof, $0.11471;
>
> (3) During the next two years of the term hereof, $0.11921;
>
> (4) During the next two years of the term hereof, $0.12370;

> (5) During the next three years of the term hereof, $0.12820;
> (6) During the next three years of the term hereof, $0.13270;
> (7) During the next three years of the term hereof, $0.13720;
> (8) During the remainder of the time this agreement remains in effect, $0.14170;
>
> in each case, however, *less* the amount per thousand cubic feet (one ($0.01) cent) now levied on Buyer in respect to the tax for gathering said gas; * * *. And provided further that in the event the statutes of the State of Louisiana, under which gas gathering tax is presently levied, shall be amended so as to levy said tax, or similar tax, at a rate greater than one ($0.01) cent per thousand cubic feet, then the price of gas thereafter received hereunder shall be reduced in an additional amount per thousand cubic feet, which shall be one-half the amount by which such tax shall exceed one ($0.01) cent per thousand cubic feet, so that the economic burden of such increased tax shall be borne one-half by Seller and one-half by Buyer. * * *

As set out in the contract provisions above, the Buyer agrees to pay the Seller an escalating price for the gas purchased less 1.0 cent per Mcf for the gathering tax levied on the Buyer. Thus, under (A)(1) above, the Buyer during the first two years of the contract was obligated to pay the Seller 11.021 cents, less 1.0 cent for the gathering tax, or 10.021 cents per Mcf net. Then the contract goes on to provide that should the State of Louisiana amend the law, under which the gathering tax is presently levied, so as to increase the amount of the gathering tax, or a similar tax, at a rate greater than the present 1.0 cent, then the price being paid for the gas by the Buyer to the Seller shall be further reduced so that Buyer and Seller will each pay one-half of the increase so as to share the economic burden of such increased tax. Sellers rely heavily upon the words "or similar tax" contending that the 2.0 cents increase in severance tax, effective simultaneously with the discontinuance of the 2.0 cents gathering tax, is a "similar tax." Sellers further contend the contract provisions "that the economic burden of such increased tax shall be borne one-half by Seller and one-half by Buyer" applies to the second 1.0 cent of the 2.0 cents severance tax.

The gathering tax was, by statute, imposed upon the purchaser of the gas, not upon the Seller. The 0.3 cent severance tax was, by statute, levied upon the Seller of the gas, not upon the Buyer. No reference is found in the contract as to the payment of the 0.3 cent severance tax, or any increases thereto, so it must be assumed the severance tax would be paid by the Seller. The term "or similar tax" obviously refers to gathering taxes or such additional taxes as might be levied upon the gathering function in the collection and treatment of the gas for delivery into the interstate pipeline. Nothing is found in the contracts which requires the Buyer to reimburse the Sellers for any part of the increased severance tax which became effective on December 1, 1958.

Ark-La, the Buyer, orally moved on the record (Tr. 128) to dismiss the foregoing Section 4 rate filings upon the grounds that the contracts do not require Ark-La to reimburse the Sellers for any taxes. The motion to dismiss was taken under advisement to be ruled upon in the initial decision. (Section 1.12(d) of the Commission's Rules of Practice and Procedure.) The motion to dismiss was renewed in Ark-La's initial brief (P. 14). It was supported in the brief of the Commission Staff at P. 13 thereof.

Since it has been determined, *supra*, there is no contractual requirement for Ark-La to reimburse Sellers for any part of the severance tax the motion to dismiss is sustained, *United Gas Pipe Line Co.* v. *Mobile Gas Service Corp.*, 350 U.S. 332, 343–344, and the filings for 0.5 cent per Mcf increase in tax reimbursement by the Sellers are disallowed.

[7] James Muslow, *et al.* (Muslow) in Docket No. G–17602 (Rate Schedule No. 1), Exhibit No. 1, p. 12, makes a sale of natural gas from their Louisiana production to Arkansas Louisiana Gas Company (Ark-La). The tax reimbursement provisions in the Muslow contracts are set forth in Exhibit No. 1, pp. 13 and 14. When the 2.0 cents per Mcf Louisiana gathering tax was suspended and the severance tax of 0.3 cent was increased by 2.0 cents, each effective on December 1, 1958, Muslow filed a Section 4 rate increase reflecting their claimed 1.667 cents per Mcf tax reimbursement. The filing was suspended but became effective, after the statutory suspension period, subject to refund.

The tax reimbursement provisions in the Muslow contract are as follows:

> (B) Irrespective of statutory liability for a given tax, it is agreed that, as between the parties, the economic burden of the certain types of taxes hereinafter identified which are now or hereafter imposed in respect of any and all production delivered hereunder for which either party may be liable, either directly or indirectly through an obligation to reimburse others, shall be borne as follows:
>
> > (1) Seller shall bear all taxes presently imposed on Seller and taxes of a similar nature or equivalent effect up to the total amount of such taxes imposed as of the date of this contract, subject to the paragraph next following.
> >
> > (2) Buyer shall bear any gathering tax now or hereafter imposed on either Buyer or Seller up to the amount of the gathering tax presently imposed on Seller.
> >
> > (3) If from time to time during the term hereof the taxes covered by Subsections (B)(1) and (B)(2) above be imposed at a higher tax rate or rates than the rate or rates therein contemplated to be borne respectively by the parties, then to the extent that such rate increase results in increasing the total amount of tax over the amount to be borne by a particular party as aforesaid, such increase shall be borne by Buyer and by Seller in the respective proportions stipulated in the Contract Tax Ratio defined in Section 1 hereof.
> >
> > (4) Any and all new and additional taxes such as sales, delivery, receipt, transactions, occupation, service, transmission, transportation, export or excise taxes, or taxes of similar nature or equivalent in effect (but not including such taxes as income, excess profits, capital stock, franchise, or general property taxes) shall be borne by Buyer and by Seller in the respective proportions stipulated in the Contract Tax Ratio.

Ark-La alleges it is obligated to reimburse Muslow 1.333 cents per Mcf tax under the provisions of the above contract.

According to (B)(1), *supra*, Muslow, the Seller, was obligated to pay the 0.3 cent per Mcf severance tax, it being the "presently imposed" tax "on Seller," and according to (B)(2), *supra*, Ark-La, the Buyer, was obligated to pay "any gathering tax now or hereafter" levied on either the Buyer or the Seller up to the amount of the gathering tax of 1.0 cent per Mcf presently imposed on the Seller. Then (B)(3), *supra*, states that if during the term of the contract the taxes covered by (B) (1) and (2), *supra*, are increased then such increase shall be paid by Buyer and Seller according to the terms of the Contract Tax Ratio as defined in Section 1 of the contract. Finally in (B)(4), *supra*, it was agreed that "any and all new and additional taxes * * * shall be borne by Buyer and by Seller in the respective proportions stipulated in the Contract Tax Ratio" which provides that two-thirds (⅔) will be paid by the Buyer and one-third (⅓) by the Seller.

Since there was a 0.3 cent per Mcf severance tax in effect on December 1, 1958, the 2.0 cents per Mcf increase in the severance tax on that date is construed, under the terms of the tax reimbursement provisions of the contract, *supra*, to be an additional tax within the provisions of (B)(4), *supra*. Therefore, under the terms of the Contract Tax Ratio of the contract Ark-La is obligated to reimburse Muslow two-thirds of the additional severance tax of 2.0 cents per Mcf, or 1.333 cents per Mcf, not the 1.667 cents per Mcf as claimed by Muslow in its Section 4 filing.

[8] Austin E. Stewart, *et al.*, (Stewart), in Docket No. G–17699 (Rate Schedule No. 2), Exhibit No. 1, p. 15, makes sales of natural gas from their Louisiana production to Ark-La. The tax reimbursement provisions in their contracts are set forth in Exhibit No. 1, pp. 16, 17 and 18. When the 2.0 cents per Mcf Louisiana gathering tax was suspended and the severance tax of 0.3 cent was increased by 2.0 cents per Mcf, each effective on December 1, 1958, Stewart filed a Section 4 rate increase reflecting their claimed 1.75 cents per Mcf tax reimbursement. This filing was suspended but became effective, after the statutory suspension period, subject to refund.

The tax reimbursement provisions of the contract between Stewart and Ark-La provide that "Seller shall pay * * * all existing severance" taxes "* * * and Buyer shall pay all existing gathering * * * taxes." At the date of the contract there existed the 0.3 cent severance tax which, according to the foregoing, was the obligation of Stewart, and there existed the 1.0 cent gathering tax which, according to the foregoing, was the obligation of Ark-La. The contract goes on to provide that "any increase * * * in severance * * * taxes * * * in addition to or greater than those being levied" on the date of the contract "* * * * then Buyer shall, so long as such additional tax shall be in effect, pay to Seller each month * * * three-fourths of such additional tax * * *" for which the Seller is liable and, further, "* * * in the event any" additional tax "* * * is levied for which the Buyer is liable" then the Seller shall, so long as the tax is in effect, "* * * pay to Buyer * * * one-fourth of such additional tax."

The 2.0 cents per Mcf additional severance tax which became effective December 1, 1958, is construed, under the terms of the foregoing tax reimbursement provisions of the contract, to be an additional severance tax. Accordingly, it is concluded, under the terms of the contract that, Ark-La, the Buyer, is obligated to reimburse Stewart, the Seller, for three-fourths (¾) of the additional 2.0 cents per Mcf severance tax, or 1.5 cents per Mcf, and not the 1.75 cents per Mcf as claimed by Stewart in their Section 4 filing.

[9] J. C. Trahan (Operator), *et al.*, (Trahan) in Docket Nos. G–17698, G–18323 and G–18274 (Rate Schedule Nos. 3 and 8), Exhibit No. 1, p. 19, makes sales of natural gas from their Louisiana production to Ark-La. The tax reimbursement provisions in their contracts are set forth in Exhibit No. 1, pp. 20–21. These provisions are similar to, yet not identical with, other contracts hereinabove considered. The 2.0 cents per Mcf Louisiana gathering tax was suspended and the severance tax of 0.3 cent was increased by 2.0 cents per Mcf to 2.3 cents per Mcf, each effective on December 1, 1958. Trahan filed a Section 4 rate increase in Rate Schedule No. 3 reflecting their claimed 1.667 cents per Mcf and in Rate Schedule No. 8 the filing reflected their claimed 1.75 cents per Mcf tax reimbursement. These filings were suspended but became effective, after the statutory suspension period, subject to refund.

The tax reimbursement provisions in the Trahan contracts are fully set forth in Exhibit No. 1, pp. 20–21. They provide that Trahan, the Seller, shall pay all severance and production taxes in effect on the date of the contract and that Ark-La will pay all gathering taxes in effect on that date. The severance tax was 0.3 cent and the gathering tax was 1.0 cent on the date of the contract. If the severance and/or gathering taxes are increased from the rates effective on the date of the contract then such increase is to be paid in the respective provisions stipulated in the Contract Tax Ratio and any new and additional taxes were to be paid in the portions stipulated in the Contract Tax Ratio.

As shown in Exhibit No. 1, p. 19, n. 1, the Contract Tax Ratio applicable to Rate Schedule No. 3 provided that the Seller, Trahan, would be liable for one-third (⅓) of any additional taxes and the Buyer, Ark-La, would be liable for two-thirds (⅔) of any additional taxes. Also as shown in Exhibit No. 1, p. 19, n. 2, the Contract Tax Ratio applicable to Rate Schedule No. 8, provided that the Seller, Trahan, would be liable for one-fourth (¼) of any additional taxes and the Buyer, Ark-La, would be liable for three-fourths (¾) of any additional taxes.

Therefore, under the provisions of the Contract Tax Ratio applicable to Rate Schedule No. 3 it is found that Ark-La is liable to Trahan for 1.333 cents per Mcf of the additional 2.0 cents severance tax from December 1, 1958, and it is further found that Ark-La is liable to Trahan, under the provisions of the Contract Tax Ratio applicable to Rate Schedule No. 8, for 1.5 cents per Mcf of the additional 2.0 cents per Mcf severance tax from December 1, 1958.

[10] David Crow, Trustee, (Crow) in Docket No. G–17669 (Rate Schedule No. 3), Exhibit No. 1, p. 44; Cyprus Oil Company (Operator), *et al.*, (Cyprus) in Docket No. G–17533 (Rate Schedule No. 2), Exhibit No. 1, p. 44; Tidewater Oil Company, (Tidewater) in Docket No. G–17668 (Rate Schedule No. 54), Exhibit No. 1, p. 44; Tidewater Oil Company (Operator), *et al.*, (Tidewater, Operator) in Docket No. G–17599 (Rate Schedule No. 62), Exhibit No. 1, p. 44; Willard E. Walker (Walker) in Docket No. G–17662 (Rate Schedule No. 1), Exhibit No. 1, p. 44; and Ted Weiner, *et al.*, (Weiner) in Docket No. G–17670 (Rate Schedule No. 3), Exhibit No. 1, p. 44, each make sales of natural gas from their Louisiana production to the Transcontinental Gas Pipe Line Corporation (Transco). The 2.0 cents per Mcf Louisiana gathering tax was suspended and the severance tax of 0.3 cent was increased by 2.0 cents per Mcf to 2.3 cents per Mcf, each effective on December 1, 1958. The foregoing Sellers filed Section 4 rate increases reflecting their claimed 1.75 cents per Mcf tax reimbursement. These filings were suspended but became effective, after the statutory suspension period, subject to refund. The tax reimbursement provisions of these contracts are set forth in Exhibit No. 1, pp. 45–46.

The position of David Crow, Trustee, in Docket No. G–17669 (Rate Schedule No. 3) was set forth in a telegram from John M. Shuey, his attorney, in which it was stated "* * * It would not appear that the tax reimbursement provisions is disputed as between the sellers and the purchaser." (Tr. p. 40, lns. 5–12.) The position of Transco, the Buyer, was stated upon the record (Tr. p. 41, lns. 18–24) "* * * with respect to the sales to Transcontinental Gas Pipeline Corporation * * * Transco's position is 1.75 cents with respect to all of their dockets * * *." Having thus stated their positions regarding the tax reimbursement provisions of their contracts neither the Sellers nor the Buyer filed briefs herein.

The Commission Staff, in its brief (P. 19), contend that Transco is only obligated to reimburse the Sellers 1.5 cents per Mcf and not 1.75 cents per Mcf as they have agreed.

Crow filed a "Brief in Reply to Commission Staff" stating "* * * no controversy exists in connection with tax reimbursements" between Transco and Crow. At page one of the Crow reply brief there is a quotation from "Stipulation 11 * * *" as follows:

> That both Crow and Transco interpret the tax reimbursement provisions of the contract as providing that Transco will reimburse Crow a total of 1.75¢ of the total Louisiana severance taxes which became effective December 1, 1958, and although the order issued by the Commission herein on January 28, 1959, states that this "interpretation appears to be questionable," there is no difference of interpretation as between Crow and Transco.

Since the foregoing "Stipulation 11" does not appear in this record it is quoted only to give further emphasis to the statements made for Sellers and Buyer upon the record, *supra*.

Since the Sellers and Transco have agreed that the Buyer (Transco) will reimburse the Sellers 1.75 cents per Mcf of the increased 2.0 cents per Mcf severance tax the same is hereby approved.

[11] Several of the parties herein contended upon the record, and in their briefs, that the legislative history which culminated in the enactment of Act No. 3 of the Extra Session of 1958, which suspended the 2.0 cents gathering tax and the enactment of Act No. 2 of the Extra Session of 1958, which increased the severance tax from 0.3 cent to 2.3 cents per Mcf, each Act effective December 1, 1958, should be considered by the Examiner to determine the intent of the Louisiana Legislature, in suspending the gathering tax and levying the additional severance tax. From this record there appears to be no ambiguity between Act No. 3, suspending the gathering tax for the determination of its constitutionality, and Act No. 2 increasing the severance tax. Obviously from the language of Act No. 3 the Louisiana Legislature had some doubts as to its constitutionality, therefore, the Legislature prudently suspended the gathering tax until its constitutionality could be determined by the Courts. As is the function of all legislatures, the Louisiana Legislature has the responsibility for providing revenues to meet its own appropriations and the State's expenses. Since the Legislature had no doubts as to its constitutional authority to levy gas severance taxes, it simply increased this tax levy by an amount sufficient to meet the State's estimated revenue requirements.

ORDER

WHEREFORE, *It is ordered*, subject to review by the Commission on appeal, or review by the Commission on its own motion, as provided in its Rules of Practice and Procedure, that:

(A) Each producer-seller of Louisiana produced natural gas whose filings for increased rates were consolidated herein, and are the subject of this Order, will make appropriate refunds, with applicable interest to the date of payment, of all tax reimbursements collected by them in excess of the amount hereinabove found and determined to be the contractual amount in each rate schedule to be reimbursable to them by the purchaser of the natural gas.

(B) Each producer-seller of Louisiana produced natural gas whose rate schedules are subject to the order issued in (A), *supra*, will within sixty (60) days following the issuance date of this Order file amended rate schedules, where appropriate, reflecting the amount of tax reimbursement herein found and determined to be the contractual amount reimbursable to them by the purchaser of the natural gas.

HARRY W. FRAZEE,
Presiding Examiner.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

OTTER TAIL POWER COMPANY, DOCKET NO. E-7254

AMENDMENT OF ORDER AUTHORIZING ISSUANCE OF PROMISSORY NOTES

(Issued August 18, 1966)

By our order issued January 17, 1966, 35 FPC 89, in this docket, Applicant was authorized to issue Promissory Notes in the aggregate principal amount of $10,000,000 outstanding at any one time, upon the terms and conditions set forth in the application. The application provided among other things, that the notes would be issued at the current Minneapolis prime rate which was currently 5% but the rate was not to exceed 5½%.

Applicant on August 3, 1966, filed a Supplemental Application requesting a modification of the Commission's authorization by providing that the notes will be issued at the current Minneapolis prime rate which is currently 5¾% but not to exceed 6½%.

Applicant points out that since filing the original application on November 17, 1965 the Minneapolis prime rate for short term unsecured Promissory Notes has increased and loans of this nature can no longer be obtained at the rates then specified.

The Commission orders:

The order issued January 17, 1966 is hereby modified to the extent that Applicant is authorized to continue to issue Promissory Notes under that order at the Minneapolis prime rate, which is currently 5¾% but that the interest rate shall not exceed 6½%, subject to all other provisions of the order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., and David S. Black.

COMMONWEALTH EDISON COMPANY AND CENTRAL ILLINOIS ELECTRIC AND GAS COMPANY, DOCKET NO. E-7275

ORDER WAIVING INTERMEDIATE DECISION PROCEDURE

(Issued August 19, 1966)

At the close of the evidentiary hearing in this proceeding on July 20, 1966, joint applicants Commonwealth Edison Company (Edison), and Central Illinois Electric and Gas Company (Central), requested waiver of the intermediate decision procedure and omission of the initial decision of the Presiding Examiner pursuant to Section 1.30 of the Commission's Rules of Practice and Procedure (Tr. 854–860). On July 22, 1966, their motion was referred to the Commission by the Presiding Examiner, William L. Ellis. No objections thereto have been filed by any party. The time for answers to the motion as provided by the Commission's Rules of Practice and Procedure (Section 1.12), has expired. By telegram received August 4, 1966, Intervenor City of Rockford, Illinois, advised that it concurred in the motion for waiver of the intermediate decision procedure.

The instant proceeding was initiated on March 2, 1966, through the filing of a joint application of Edison and Central requesting authority under Section 203 of the Federal Power Act to merge and consolidate their respective facilities. By order of June 3, 1966, 35 FPC 877, the Commission set the proposed merger application for hearing. Hearing sessions were held on July 11, 14, 15, 19 and 20, 1966. The briefing schedule as fixed by the Presiding Examiner specifies the filing of simultaneous main and reply briefs by all parties; main briefs to be filed on or before August 24, 1966 and reply briefs on or before September 8, 1966.

Under the briefing schedule fixed by the Presiding Examiner, waiver of the intermediate decision procedure will facilitate Commission consideration of this matter upon the merits at an early date. The public interest will be served by waiver of the intermediate decision procedure.

Edison and Central in support of their request for waiver of the intermediate decision procedure point out that the merger proposal and the basis of the underlying exchange of stock between the Companies relate to, among other things, market values prevailing at the time the subject application was filed with this Commission, March 2, 1966. Although passed upon by Edison's stockholders, the proposed merger must be submitted to the vote of Central's stockholders. In that regard, Central's counsel advised that (Tr. 857):

> * * * the stockholders of Central have not yet voted. Proxies have been obtained. The annual meeting has been successively postponed, awaiting action of the Commission. There is a serious question of how long we can continue to hold those proxies without going back to the stockholders again. We wish very much to avoid that problem, as well as the effect upon the transaction, itself.

Additionally, it should be noted that our order setting this matter for oral hearing directed the parties in this case to address themselves to a number of factors raising broad and unique policy considerations relating to the appropriate standards for passing upon mergers under Section 203 of the Act. In the absence of any indication that their resolution will be complicated by disputes as to the underlying facts, they are particularly susceptible to Commission resolution in the first instance without initial decision of the Presiding Examiner.

We do not intend by our decision in this case to suggest a Commission policy favoring requests for waiver of the intermediate decision procedure in proceedings involving the exercise of the Commission's regulatory authority pursuant to Section 203 of the Federal Power Act. This action is occasioned by the inability of applicant parties to foresee that Commission policy considerations would require an oral hearing prior to disposition of the merger application upon the merits,* and therefore more time has elapsed than was anticipated.

The Commission finds:

Waiver of the intermediate decision procedure in the above-entitled matter is necessary and appropriate for the purposes of the Federal Power Act, the Commission's rules and regulations thereunder and due and timely execution of the Commission's functions imperatively and unavoidably so requires.

The Commission orders:

(A) The motion for waiver and omission of the intermediate decision procedure is granted. The Examiner is directed to certify the record in this proceeding to the Commission for its decision.

(B) Briefs of all parties to this proceeding shall be filed with the Commission in the manner provided by Sections 1.14–1.17 of the Commission's Rules of

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As we noted in our order setting this matter for hearing, we intend hereafter to set formal oral hearings on " * * all applications requesting approval of the merger and consolidation of two or more Class A electric utilities * * *."

Practice and Procedure and within the time periods as heretofore fixed by the Presiding Examiner.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

GRAND RIVER DAM AUTHORITY, PROJECT NO. 2524

ORDER MODIFYING PROJECT LICENSE (MAJOR)

(Issued August 19, 1966)*

Application was filed on May 26, 1966, by Grand River Dam Authority, licensee for Project No. 2524, for modification of the license for the project, known as the Salina Pumped Storage Project (Salina Project), presently under construction on the Chimney Hollow and Little Saline Creek, tributaries of the Grand River, in Mayes and Wagoner Counties, Oklahoma.

The licensee seeks the deletion from the license of: (a) Article 12, providing for Commission determination of the actual legitimate original cost of the project pursuant to Section 4(b) of the Federal Power Act; and (b) Articles 7 through 11 which were included in the license in the interests of navigation.

The Federal Power Act was amended to make certain of its provisions relating principally to recapture, original cost and other accounting requirements inapplicable to municipal licenses (16 U.S.C. 828). In our license order issued January 3, 1966, for Project No. 2524, 35 FPC 3, we found (finding (1)) that Grand River Dam Authority is a "public corporation and an instrumentality of the State of Oklahoma"; and "is a municipality within the meaning of Section 3(7) of the Federal Power Act * * * " Accordingly, Article 12 of the license providing for the determination of the actual legitimate original cost is inapplicable to Project No. 2524 and the article should be eliminated from the license.

The licensee requests that the license conditions relating to navigation be eliminated from the license since Project No. 2524 is not to be constructed across navigable waters of the United States. Proposed Project No. 2524 is a pumped storage project and the reservoir for the Markham Ferry Project will serve as the lower pool for the proposed pumped storage project. In the order issued June 22, 1955, issuing license for the Markham Ferry Project (Project No. 2183) the Commission found that the Markham Ferry Project is part of a multiple-purpose plan, "including aids to navigation" (14 FPC 815, 816). See also, *U.S.* v. *Grand River Dam Authority*, 363 U.S. 229, 230.

The license conditions relating to navigation are essentially a restatement of certain provisions of the Federal Power Act which we are not authorized to waive. These conditions are customarily included in licenses for projects affecting navigation and we find no justification for their elimination from this license.

The Commission finds:

It is appropriate and consistent with the public interest that our order issuing license for Project No. 2524 be modified to delete therefrom Article 12.

The Commission orders:

(A) Our license order, issued January 3, 1966, for Project No. 2524 is hereby modified by deleting therefrom Article 12.

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*See order issued October 11, 1966 granting rehearing for further consideration. See order issued March 8, 1968 further modifying license on rehearing, 39 FPC 241.

(B) The aforementioned application for modification is hereby denied in all other respects.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

IOWA SOUTHERN UTILITIES COMPANY AND MICHIGAN WISCONSIN PIPE LINE COMPANY, DOCKET NO. CP66-279

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued August 19, 1966)

On February 28, 1966, Iowa Southern Utilities Company (Applicant) filed in Docket No. CP66-279 an application as amended by letters of April 8 and May 13, 1966, pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Michigan Wisconsin Pipe Line Company (Respondent) to establish physical connection of its transportation facilities with the facilities proposed to be constructed by the Applicant and to sell natural gas to Applicant for distribution in Oakville, Iowa, all as more fully set forth in the application.

Applicant proposes to construct and operate a gas distribution system in the community of Oakville. Applicant also proposes that Respondent construct a lateral pipeline of less than 300 feet (pursuant to Respondent's 10-cent formula), a gas measuring station and related facilities. The application states that Oakville is located in southeast Louisa County, Iowa, on State Highway 407 and has a population of 346 and 8 commercial establishments.

The total estimated volumes of natural gas necessary to meet Applicant's annual and peak day requirements for the initial three year period of proposed operations are stated to be:

	First year	Second year	Third year
Annual (Mcf)	12,766	19,801	21,566
Peak day (Mcf)	100	158	176

The total estimated cost of Applicant's proposed distribution system is $42,443, which cost will be financed with internally generated funds and short term bank loans.

Respondent filed its answer on April 4, 1966, stating that it had no objection to the granting of the order requesting service and the construction of lateral facilities and measuring station.

Due notice of the filing of the application and opportunity for hearing thereon has been given by publication in the Federal Register on March 16, 1966 (31 F.R. 4482). No protest, petition to intervene or request for hearing has been filed in this proceeding.

The Commission finds:

(1) Michigan Wisconsin Pipe Line Company, a Delaware corporation having its principal place of business in Detroit, Michigan, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order dated November 30, 1946, in Docket No. G-669 (5 FPC 953).

(2) Applicant, Iowa Southern Utilities Company, a Delaware corporation having its principal place of business in Centerville, Iowa, is a corporation legally authorized to engage in the local distribution of natural gas to the public within the meaning of Section 7(a) of the Natural Gas Act.

(3) It is necessary and desirable in the public interest to direct Michigan Wisconsin to establish physical connection of its transmission facilities with the facilities proposed to be constructed and operated by Applicant and to sell and deliver to Applicant, under a service agreement to be executed by Applicant with Michigan Wisconsin in accordance with the Commission's Regulations, up to 176 Mcf of natural gas on a maximum day for distribution and resale as hereinbefore described.

(4) The requirement that Michigan Wisconsin serve Applicant, as hereinafter ordered, will not impair Respondent's ability to render adequate service to its existing customers.

(5) Applicant should be prepared to receive natural gas from Michigan Wisconsin for distribution in Oakville, Iowa, within one year from the date of the issuance of this order.

The Commission orders:

(A) Michigan Wisconsin Pipe Line Company is directed to establish physical connection of its facilities with the facilities proposed to be constructed and operated by Applicant, as hereinbefore described, and to sell and deliver up to 176 Mcf of natural gas on a maximum day to Applicant under a service agreement to be executed by Applicant with, and filed by, Michigan Wisconsin in accordance with the Commission's Regulations, for distribution and resale as hereinbefore described. Such service shall be rendered pursuant to Michigan Wisconsin's presently filed appropriate rate schedule.

(B) Michigan Wisconsin shall report to the Commission the date of commencement of service to Applicant within 15 days after such service begins.

(C) Applicant shall (1) obtain appropriate authorization from the Iowa Commerce Commission for those facilities to be located outside Oakville, Iowa, and (2) be prepared to receive service as directed herein within one year from the date of issuance of this order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

C. H. LYONS, SR., ET AL., DOCKET NO. CI66-539;
COASTAL STATES GAS PRODUCING COMPANY, DOCKET NO. CI66-1171

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND ACCEPTING FPC GAS RATE SCHEDULES FOR FILING

(Issued August 19, 1966)

On December 27, 1965, C. H. Lyons, Sr., *et al.* (Lyons), filed in Docket No. CI66-539 an application, as supplemented on January 25, 1966, and May 13, 1966, pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale of natural gas to South Texas Natural Gas Gathering Company (South Texas) and delivery of said gas to Trunkline Gas Company (Trunkline) from the Gueydan Field, Acadia and Vermilion Parishes, Louisiana, all as more fully set forth in the application.

On May 26, 1966, Coastal States Gas Producing Company (Coastal States) filed in Docket No. CI66–1171 an application, as supplemented on July 8, 1966, pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale of natural gas to South Texas and the delivery of said gas to Trunkline from the Manchester Field, Calcasieu Parish, Louisiana, all as more fully set forth in the application.

Applicants will deliver natural gas to Trunkline for the account of South Texas. Concurrently herewith an order is being issued in Docket No. CP66–346, *infra*, p. 489, authorizing South Texas and Trunkline to exchange natural gas and construct and operate the necessary facilities therefor.

Applicant in Docket No. CI66–1171 requests that its certificate be limited to a term of one year because negotiations are presently under way for the long-term dedication of gas from the Manchester Field to another pipeline at a higher rate. Under the circumstances presented by the instant application and in view of the reserve situation in the South Louisiana area, it appears reasonable to limit Coastal States' certificate to a term of one year. Within one year from the date of initial delivery, Coastal States shall file either an application pursuant to Section 7(b) of the Natural Gas Act to abandon the sale of gas to South Texas or a petition to amend this order by authorizing the continuation of the sale to South Texas beyond the one-year limit. The issuance of a limited certificate should not be construed as a waiver of the Commission's responsibility or jurisdiction under Section 7(b) of the Natural Gas Act nor should it be construed as establishing a precedent for the issuance of limited certificates for sales from this or any other area. Any future requests for limited certificates will be considered on an *ad hoc* basis.

Concurrently with their applications Applicants submitted FPC gas rate schedules for the subject sales. By letter-order issued July 22, 1966, Coastal States' contract was accepted for filing for temporary service only and was designated as its FPC Gas Rate Schedule No. 63. The rate schedules submitted by both Applicants will be accepted for filing for sales made pursuant to the certificates issued herein. The sales authorized herein will be at rates below the ceiling rates established by the Commission's Statement of General Policy No. 61–1, as amended.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the applications has been received.

At a hearing held on August 18, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications, as supplemented, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Each Applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications in this proceeding, will be made in interstate commerce subject to the jurisdiction of the Commission; and such sales by Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The sales of natural gas by Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity and certificates therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the FPC gas rate schedules submitted by Applicants should be accepted for filing as hereinafter ordered.

The Commission orders:

(A) Certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing the sales for resale and delivery of natural gas in interstate commerce by Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, as hereinbefore described and as more fully described in the applications in this proceeding.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as Applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of Section 4 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's Regulations thereunder, and is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against Applicants. Further, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. Nor shall the grant of the certificates aforesaid for service to the particular customer involved imply approval of all of the terms of the contracts, particularly as to the cessation of service upon termination of said contracts, as provided by Section 7(b) of the Natural Gas Act. Nor shall the grant of the certificates aforesaid be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(D) No increase in rate shall be filed by either Applicant prior to July 1, 1967, at any price which would exceed the ceiling prescribed for the given area by paragraph (d) of the Commission's Statement of General Policy No. 61-1, as amended.

(E) The certificate issued in Docket No. CI66-1171 shall be for a term of one year from the date of initial delivery. Within one year from the date of initial delivery Applicant in Docket No. CI66-1171 shall file an application pursuant to Section 7(b) of the Natural Gas Act to abandon the sale of gas to South Texas or a petition to amend the instant order by authorizing the continuation of the subject sale beyond the one-year limit.

(F) The contract of May 15, 1966, submitted by Applicant in Docket No. CI66-1171, heretofore accepted for filing for temporary service and designated as Applicant's FPC Gas Rate Schedule No. 63, is accepted for filing for sales made pursuant to the permanent certificate issued in this order.

(G) The contract of October 15, 1965, submitted by Applicant in CI66-539 is accepted for filing to be effective on the date of initial delivery and is designated as C. H. Lyons, Sr., *et al.*, FPC Gas Rate Schedule No. 25.

Before Commissioners: Lee C. White, Chairman: L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

SOUTH TEXAS NATURAL GAS GATHERING COMPANY AND TRUNKLINE GAS COMPANY, DOCKET NO. CP66-346

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 19, 1966)

On April 29, 1966, South Texas Natural Gas Gathering Company (South Texas) and Trunkline Gas Company (Trunkline), collectively referred to as Applicants, filed in Docket No. CP66-346 a joint application, as amended on June 10, and July 8, 1966, pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas in volumes up to 15,000 Mcf per day and for the construction and operation of facilities necessary to effectuate the proposed exchange, all as more fully set forth in the application, as amended.

Applicants seek authority to construct and operate certain facilities and through the use of such facilities to exchange natural gas pursuant to an agreement dated March 11, 1966, as amended. Under the terms of said agreement Trunkline will deliver to South Texas quantities of gas up to 15,000 Mcf per day at a meter station to be constructed, owned and operated by Trunkline at a point on Trunkline's 16-inch pipeline in Brooks County, Texas. The agreement between the parties further provides for the delivery by South Texas of equivalent quantities of gas to Trunkline at Trunkline's existing measuring facilities at the tail-gate of the San Jacinto Gas Processing Corporation Eagan Plant, Acadia Parish, Louisiana, and at a point in Section 24, Township 10 South, Range 6 West, Jefferson Davis Parish, Louisiana. The agreement also provides for the establishment, by mutual agreement between the parties, of additional delivery points on Applicants' respective pipeline systems. The establishment of such additional delivery points will necessitate further authorization by the Commission.

Applicants further propose, in addition to the meter station to be constructed by Trunkline at the Brooks County, Texas, delivery point, that South Texas construct approximately 1,500 feet of 6⅝-inch O.D. interconnecting pipeline, a 250-BHP field compressor to receive gas at such delivery point and 7 miles of 10¾-inch pipeline to connect the Jefferson Davis Parish delivery point with its gas supply in the South Manchester Field, Calcasieu Parish, Louisiana.

Concurrently herewith an order is being issued in Docket Nos. CI66-539 and CI66-1171, *supra*, p. 486, authorizing C. H. Lyons, Sr., *et al.*, and Coastal States Gas Producing Company, respectively, to sell natural gas to South Texas and deliver it to Trunkline in order to effectuate the subject exchange.

On July 22, 1966, a temporary certificate of public convenience and necessity was issued to Applicants in the instant proceeding authorizing the construction and operation of facilities and the exchange of natural gas as hereinbefore described and as more fully described in the application, as amended.

The total estimated cost of Applicants' proposed construction is $316,800, which will be financed from funds on hand.

After due notice, no protest, petition to intervene or notice of intervention has been filed herein.

At a hearing held on August 18, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, as amended, and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, South Texas Natural Gas Gathering Company, a Delaware corporation having its principal place of business in Corpus Christi, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its Opinion and order issued August 30, 1962, in Docket No. G–18907 (28 FPC 401).

(2) Applicant, Trunkline Gas Company, a Delaware corporation with its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order issued May 4, 1950, in Docket No. G–882 (9 FPC 721).

(3) The facilities hereinbefore described and as more fully described in the application in this proceeding are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof and the transportation of natural gas by Applicants are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(4) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(5) The construction and operation of the proposed facilities and the transportation of natural gas by Applicants are required by the public convenience and necessity, and a certificate therefor should be issued as hereinafter ordered and conditioned.

(6) Public convenience and necessity require that the certificate hereinafter issued and the rights granted thereunder be conditioned upon Applicants' compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of said Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to South Texas Natural Gas Gathering Company and Trunkline Gas Company authorizing the construction and operation of the facilities and the exchange and delivery of up to 15,000 Mcf of natural gas per day as hereinbefore described and as more fully set forth in the application, as amended, in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicants' compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) Applicants shall complete and place in actual operation the facilities authorized herein within 6 months from the date of this order pursuant to paragraph (b) of Section 157.20 of the Commission's Regulations.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

TRANSWESTERN PIPELINE COMPANY, DOCKET NOS. CP63-204 AND CP64-91; GULF PACIFIC PIPELINE COMPANY, CP63-223; EL PASO NATURAL GAS COMPANY, CP64-76

ORDER CORRECTING ORDERING CLAUSES IN OPINION NO. 500

(Issued August 19, 1966)

On August 5, 1966, El Paso Natural Gas Company (El Paso), filed a petition requesting that ordering clauses (F) and (G) of Opinion No. 500, issued July 26, 1966, 36 FPC 176, in the above dockets be revised in order to properly reflect the Commission's purposes as set forth in the text of that opinion. Specifically, El Paso noted that in ordering paragraph (F)(3), we directed that all prepayments be excluded from its rate base, whereas in the text of the opinion, we indicated that it would be required to file rates based upon the cost of service "submitted in the proceeding", adjusted to reflect a 6⅛% rate of return. Further, El Paso states that the requirement in ordering paragraph (G)(1) that its pass through of net producer rate decreases be based on reductions in "present rates" of its suppliers could have the unintended effect of requiring a rate reduction with respect to a supplier rate now in effect but not included in the cost of service upon which its rates are based.

Upon consideration of the petition, we conclude that it is appropriate that ordering paragraphs (F)(3), (G)(1) and (G)(2) be revised as hereinafter indicated.

The Commission orders:

(A) Paragraphs (F)(3), (G)(1) and (G)(2) of Opinion No. 500 issued July 26, 1966, hereby are revised to read as follows:

(F)(3) El Paso shall file tariff sheets applicable to its Southern Division acceptable to the Commission reflecting as follows: Upon attaining an increase in its pipeline capacity and sales to Pacific Lighting of 200 M^{2}cfd (14.9 psia), rates and charges which, in addition to the reduction of its commodity rates by ¾ cent on its Southern Division as proposed in these proceedings, shall reflect such further reduction as results after use of (1) 6⅛ percent rate of return; and (2) exclusion of any prepayments for gas from its rate base in excess of those prepayments reflected in the cost of service submitted in this proceeding.

(G) The certificates herein issued to the pipelines, Transwestern and El Paso, are further conditioned to provide that the rates and charges computed as provided in (E)(2) (i) and (ii) and (F)(3) respectively above shall be further modified to reflect the following:

(1) If during the period commencing with the date the rates computed under (E)(2)(i) or (F)(3) above, as the case may be, become effective and ending on the first date on which rates other than those herein provided become effective any reductions in the rates reflected in the cost of service submitted in the proceeding, of any gas supplied to the pipelines become final and no longer subject to court review, the pipeline shall file with the Commission appropriate reductions in their rates schedules to reflect the effect of

such reductions in their costs of purchased gas; provided, however, that such reductions may be offset by them to the extent of any increases in the rates reflected in the cost of service submitted in this proceeding which have become effective, and provided that the pipelines need not make rate reductions until the net reductions in the cost of purchased gas amount to at least 0.1 cents per Mcf.

(2) Any refunds resulting from reductions in producer rates below those reflected in the cost of service submitted in this proceeding received by the pipelines relating to the period commencing with the dates the rates computed under (E)(2)(i) or (F)(3) above, as the case may be, become effective, shall be refunded to their customers within 30 days after receipt of such refund, provided that no refund need be made unless the amount to be refunded in the case of Transwestern shall be at least $250,000, except for the final refund which shall be at least $12,500, and in the case of El Paso shall be at least $1,000,000, except for the final refund which shall be at least $50,000. The pipelines within 15 days after making any such refunds shall submit reports to the Commission setting forth the amounts refunded to each customers and the billing determinants used in the computation of such refunds.

(B) In all other respects, that opinion and order remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

CHANDELEUR PIPE LINE COMPANY, DOCKET NO. CP64-37

FINDINGS AND ORDER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 22, 1966)

On June 6, 1966, Chandeleur Pipe Line Company (Petitioner) filed in Docket No. CP64-37, a petition to amend the Commission's order issued December 16, 1963, 30 FPC 1515, in said docket by authorizing an increase in the volumes of gas transported from the Main Pass Block 41 gas field located off-shore Louisiana in the Gulf of Mexico to a point on shore at a refinery and related facilities near Pascagoula, Mississippi, for Petitioner's sole customer and 100 percent owner, Standard Oil Company, incorporated in Kentucky, (Kyso), all as more fully set forth in the petition to amend in this proceeding.

The order of December 16, 1963, authorized Petitioner to construct and operate a pipeline and to transport natural gas for Kyso which gas is purchased by the latter from The California Company (Calco). (Calco and Kyso are wholly-owned subsidiaries of the Standard Oil Company of California). Petitioner states that the facilities heretofore authorized in this docket have been used to transport approximately 50,000 Mcf of natural gas on a maximum day and approximately 30,000 Mcf of natural gas on an average day.

Petitioner states that Kyso has begun construction of an ammonia fertilizer plant and a paraxylene plant at its Pascagoula refinery; the ammonia plant will be completed in early 1967 and the paraxylene plant in mid 1967. Kyso will utilize natural gas as feedstock and fuel for the two new plants. Petitioner states that on or about April 1, 1967, Kyso will commence to increase its purchases and, in the latter part of 1967 when both new additions are operating at design capacity, will purchase a total average day volume of 85,000 Mcf and that on the same date, the maximum daily quantity will be approximately 112,000 Mcf.

Petitioner states that it will not require any new facilities to increase deliveries as proposed.

Due notice of the filing of the petition to amend and opportunity for hearing thereon has been given by publication in the Federal Register on June 23, 1966 (31 F.R. 8701). No protest or petition to intervene has been filed in this proceeding.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's order issued December 16, 1963, in Docket No. CP64-37 be amended as hereinafter ordered.

The Commission orders:

(A) The Commission's order issued December 16, 1963, in Docket No. CP64-37 is amended by authorizing Petitioner to increase the volumes of gas transported from the Main Pass Block 41 gas field for the account of Kyso as hereinbefore described and as set forth in the petition to amend.

(B) Petitioner shall commence the increased transportation of natural gas authorized by paragraph (A) above by June 1, 1967.

(C) Petitioner shall file in accordance with the Commission's Regulations under the Natural Gas Act, as amendments to its FPC Gas Rate Schedule T-1, the revision providing for the proposed increase in volumes of gas transported as set forth in Exhibit P of the subject petition to amend.

(D) In all other respects the order of December 16, 1963, shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

EL PASO NATURAL GAS COMPANY, DOCKET NO. CP66-357

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 22, 1966)

On May 9, 1966, El Paso Natural Gas Company filed in Docket No. CP66-357 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and the sale and delivery of natural gas to Cascade Natural Gas Corporation (Cascade), an existing resale customer, for transportation to and resale and distribution in the community of Prineville, Oregon, and environs, all as more fully set forth in the application in this proceeding.

The proposed sale and delivery will be made out of gas transported by Pacific Gas Transmission Company (Pacific Gas) for the account of Applicant. To implement deliveries to Applicant, Pacific Gas will construct, at Applicant's cost, own and operate measuring and regulating facilities on Pacific Gas' existing 36-inch pipeline in Jefferson County, Oregon.*

Applicant proposes to construct and operate 4.3 miles of 6-inch pipeline, and necessary appurtenances, from a point of connection with the 36-inch line of Pacific Gas in Jefferson County to a point of connection with Cascade's proposed facilities in Crook County, Oregon. Applicant states that Cascade will construct 8.2 miles of 6-inch line and the necessary distribution facilities to serve Prineville and environs.

The application shows estimated deliveries to Cascade in the third year to be 497 Mcf on a peak day and 55,820 Mcf annually, increasing to 87,404 Mcf annually in the fifth year. The proposed sale will be made in accordance with Applicant's FPC Gas Rate Schedule DI-3, FPC Gas Tariff, Original Volume No. 3.

The total estimated cost of facilities to be constructed by Applicant is $128,180. The estimated cost of facilities to be constructed by Pacific Gas and paid for by Applicant is $6,400. Applicant will finance these estimated costs from currently available working funds.

On June 6, 1966, the Public Utility Commissioner of Oregon filed a notice of intervention in support of the subject application.

After due notice, no petition to intervene, other notice of intervention or protest to the granting of the application has been filed.

At a hearing held on August 18, 1966, the Commission on its own motion received and made a part of the record in this proceeding, all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, El Paso Natural Gas Company, a Delaware corporation having its principal place of business in El Paso, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of January 11, 1944, in Docket No. G-288 (4 FPC 486).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are to be used in the transportation and sale of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof and the proposed sale and delivery of natural gas by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities and the proposed transportation and sale of natural gas by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs

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*By Commission order issued August 5, 1960, in Docket No. G-17350 (24 FPC 134), Pacific Gas was authorized to transport for the account of Applicant and deliver natural gas, at delivery points specified by Applicant, along Pacific Gas' system in Idaho, Washington and Oregon. Said gas is purchased by Applicant from Westcoast Transmission Company at Kingsgate, British Columbia. In Docket No. CP63-59 (27 FPC 671) Pacific Gas was authorized to construct and operate the facilities necessary to make deliveries of said gas transported for Applicant.

(a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Applicant, El Paso Natural Gas Company, to construct and operate the proposed facilities and to sell and deliver natural gas as hereinbefore described, all as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be constructed and placed in actual operation and the sale and delivery of natural gas authorized in paragraph (A) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within one year from the date on which this order issues.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

THE JUPITER CORPORATION, DOCKET NO. RI63-212, ET AL.

ORDER CLARIFYING PRIOR ORDER AND DENYING REHEARING

(Issued August 22, 1966)

On July 26, 1966, Phillips Petroleum Company and Kerr-McGee Corporation (Phillips-Kerr-McGee), jointly filed an application for rehearing of our order issued June 28, 1966, 35 FPC 1091, in these proceedings. By that order we approved a rate settlement, prescribed refunds and issued a certificate of public convenience and necessity to Jupiter.

Phillips-Kerr-McGee request that the referenced order be modified on two points. Paragraph (7) of the settlement notes, in part, that it "is made with the express understanding that Jupiter does not waive its rights with respect to the collection * * * of compensation for the services Jupiter performs * * * in transporting, separating, or storing those producers' condensates and liquifiable hydrocarbons * * *." In commenting on that paragraph we stated that it did not present any issue to be determined at this time. We further noted:

> Any contractual arrangements Jupiter makes with the producers for those services will be acted upon if and when they are appropriately submitted to this Commission.

Phillips-Kerr-McGee state that the quoted sentence seems to imply that there are contractual "arrangements" between Jupiter and the producers (Phillips-Kerr-McGee and Union Oil Company of California) which remain open for negotiation. They contend that if that is implied, the Commission has erred because the firm contractual arrangement entered into by the parties with respect to such transportation is still in force.

The quoted sentence neither implies that further contractual arrangements are open for negotiation nor requires that further negotiations be held. That sentence merely indicates that we are not now determining the claimed rights of any party on this matter. Accordingly, it is our view that the Phillips-Kerr-McGee request that we strike the quoted sentence from our order should be denied.

Phillips-Kerr-McGee also make reference to paragraph (5) of the settlement which refers to proposed future action by Jupiter to transfer certain of its properties to a new company which will file appropriate application pursuant to Section 7(c) of the Natural Gas Act. Phillips-Kerr-McGee appear to seek assurance that the order issued June 28, 1966 did not approve the proposed transfer of Jupiter's properties. We believe that both the order and the settlement are clear that the reference to transfer of properties relates to a future intent on the part of Jupiter. All aspects of such transfer will be the subject of appropriate proceedings before the Commission. Our order issued June 28 in no way constitutes an approval of any proposal that was not specifically before us at the time of issuance of that order.

The Commission orders:

Except to the extent herein clarified, the application for rehearing of the order issued June 28, 1966, filed by Phillips-Kerr-McGee hereby is denied.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

LAKE SHORE PIPE LINE CO., DOCKET NO. CP66-402

FINDINGS AND ORDER AFTER STATUTORY HEARING PERMITTING AND APPROVING ABANDONMENT OF FACILITIES

(Issued August 22, 1966)

On June 7, 1966, Lake Shore Pipe Line Co. (Applicant) filed in Docket No. CP66-402 an application pursuant to Section 7(b) of the Natural Gas Act requesting permission and approval to abandon by sale to its sole jurisdictional customer, The East Ohio Gas Company (East Ohio), approximately 31.8 miles of transmission pipeline located in the state of Ohio and to discontinue the operation of said facilities as well as the service now performed with them, all as more fully set forth in the application.

Specifically, Applicant proposes to abandon by sale to East Ohio 28.51 miles of 10 and 16-inch pipeline between Ashtabula and Fairport, Ohio, and 3.30 miles of 10-inch pipeline, a part of the intersecting Ashtabula, Ohio, to Cochranton, Pennsylvania pipeline, together with all of the related land, structures, materials and supplies.

The transfer of facilities proposed by the instant application constitutes a step toward the realignment of the operating companies in the Consolidated Natural Gas System following Commission approval on February 2, 1965, of the merger of the facilities, operations and services of the former New York State Natural Gas Corporation into Hope Natural Gas Company, now known as Consolidated Gas Supply Corporation (Opinion No. 448, 33 FPC 150). Consequently, the proposed transfer of facilities does not involve any cessation, curtailment, or interruption of service to ultimate customers.

After due notice, no protest, petition to intervene or notice of intervention has been filed herein.

At a hearing held on August 18, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Lake Shore Pipe Line Co., an Ohio corporation having its principal place of business in Cleveland, Ohio, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in the order accompanying Opinion No. 205 issued February 15, 1951, in Docket No. G–1210, *et al.* (10 FPC 22).

(2) The facilities to be abandoned, as hereinbefore described, and more fully described in the application in this proceeding, are used in the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission, and abandonment of such facilities is subject to the requirements of Subsection (b) of Section 7 of the Natural Gas Act.

(3) The abandonment by Applicant, as hereinbefore described, is permitted by the public convenience and necessity and an order approving same should be issued as hereinafter ordered.

The Commission orders:

(A) Permission for and approval of the abandonment by Applicant of the facilities hereinbefore described, all as more fully described in the application in this proceeding, are granted.

(B) The time within which the abandonment of the facilities hereinbefore described, as authorized in paragraph (A) above, shall be accomplished is fixed at six months from the date of this order.

(C) Applicant shall advise the Commission of the date of said abandonment within ten days thereof.

OPINION NO. 505

LONE STAR GAS COMPANY, LONE STAR GATHERING COMPANY AND UNITED GAS PIPE LINE COMPANY, DOCKET NO. CP65–118; LONE STAR GATHERING COMPANY, DOCKET NO. CP62–179; UNITED GAS PIPE LINE COMPANY, DOCKET NO. CP62–193

OPINION AND ORDER ISSUING CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY, AND GRANTING APPLICATIONS FOR ABANDONMENT

(Issued August 22, 1966)*

Syllabus

1. In light of United's growth rate and advantageous location of Gathering's reserves, Commission *finds* United has satisfactorily established need for gas in question. PP. 501; 513, 514.
2. United's purchase of gas in South Texas, together with construction of certificated storage facilities, will enable it to make more effective utilization of the Texas to North Louisiana line, thus aiding in meeting requirements of North Louisiana customers and solving prepay situation. PP. 502; 514.
3. Upon certification here, United will take over Gathering's facilities and operations and make field purchases direct, thus question of reasonableness of contract price for Gathering's gas no longer has same relevance as when first advanced. PP. 502; 516.

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*Initial decision appears on p. 509. Rehearing granted, etc. by order issued October 14, 1966, 36 FPC 754.

4. There is no merit to argument that transportation costs from fields to pipeline must be added to United's average gas purchase price resulting in an excess over prescribed in-line price; United's assumption of such costs is no different from that of any other pipeline company which assumes cost of extending its transmission line to a producer field to receive purchased gas at an in-line price. P. 503.
5. United's acquisition of Gathering's facilities will benefit its customers by affording the advantage of a significant decrease in its gas purchase costs without an offsetting increase in other elements of its cost of service. PP. 503; 517.
6. While minimum take provision in gas purchase contracts calling for 1 Mcf for each 6,200 Mcf of reserves may be onerous in some areas, provision in Gathering's contract poses no problem in South Texas fields which have a high deliverability rate in relation to quantity of reserves. P. 504.
7. Where pipeline proposed to be sold is no longer used for primary purpose for which it was constructed and could be economically and advantageously integrated into purchaser's system, abandonment by sale is permitted by public convenience and necessity. P. 504.
8. Assertion that Gathering misrepresented facts in another proceeding by claiming it functioned more as a pipeline than gatherer is *rejected;* evidence here shows greater portion of Gathering's investment is in field lines and that its primary function is to move gas as a pipeline from various producing fields through its lines, both field and transmission, into United's pipeline system. P. 504.
9. In a proceeding arising under Section 7 of the Natural Gas Act, Commission *issues* certificates of public convenience and necessity and *authorizes* abandonment of facilities.

Commissioner Ross *concurring*

John W. Scott, *Louis L. DaPra*, *Manuel J. Edling, Jr.* and *Richard B. Williams* for Lone Star Gas Company and Lone Star Gathering Company

Carl J. Babin for United Gas Pipe Line Company

Morton L. Simons and *Kent H. Brown* for Public Service Commission of the State of New York

Richard C. Steffey for the Staff of the Federal Power Commission

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

O'CONNOR, *Commissioner:*

This is a consolidated proceeding under Section 7 of the Natural Gas Act involving interrelated applications in which (1) Lone Star Gas Company (Lone Star) seeks authority to acquire certain facilities owned and operated by United Gas Pipe Line Company (United); (2) United seeks authority to acquire certain facilities owned and operated by Lone Star Gathering Company (Gathering), a wholly owned subsidiary of Lone Star; (3) United and Lone Star request certificates authorizing the sales of gas to each other; and (4) Gathering and United request permission to abandon the facilities which are to be acquired by United and Lone Star, respectively.

The Public Service Commission of the State of New York (New York Commission) intervened to oppose the above applications stating that United does not need the gas it proposes to obtain.

After a hearing on a consolidated record, the Presiding Examiner, Howell Purdue, issued an initial decision on February 16, 1966, granting all the authorizations sought by the applicants, subject to appropriate conditions covering the flow-through of refunds by reason of the reduction in cost of purchased gas resulting from the order in *Sinclair Oil & Gas Company, et al.*, Opinion No. 476 (1965), 34 FPC 930.[1]

The proceeding is before the Commission on the examiner's decision, exceptions filed by the New York Commission, and opposition to such exceptions filed by staff and the applicants. The basic issue is whether the examiner was correct in finding that United has a need, at its contracted price, for approximately 40,000 Mcf of natural gas per day which it agreed to purchase from Gathering.

The New York Commission filed a motion for oral argument which was opposed by the applicants. We find that the issues in this proceeding have been adequately covered in the briefs and exceptions. The motion for oral argument will accordingly be denied.

Factual and Procedural Background

On February 5, 1962, Gathering applied in Docket No. CP62–179 for authorization under Section 7(c) of the Natural Gas Act to construct and operate a 24.4-mile transmission pipeline in south Texas, extending southeast from a point near the De Witt-Victoria Counties line to connect with United's "West 30-inch Line", which runs from Refugio, Texas, to Monroe, Louisiana. Gathering asked authorization to sell United an annual volume of gas equal to a daily average of 40,000 Mcf. On February 15, 1962, United applied in Docket No. CP62–193 for authorization to construct and operate a purchase meter station and related facilities to receive gas from Gathering. The applicants constructed and are now operating their requested facilities under temporary certificates issued in 1962 and 1963. During 1964 Gathering sold United an annual volume of 15,263,119 Mcf of natural gas at a contract price of 21.5 cents per Mcf.

Gathering obtains its gas from independent producers in Texas Railroad Commission District No. 2 under contracts negotiated after September 28, 1960, for terms of 20 years or longer, at a price of 18 cents per Mcf, except for two contracts involving the purchase of sour gas at 12 cents per Mcf. Under these contracts 305 billion cubic feet of reserves are committed to Gathering. The producers received temporary authorization for these sales on September 7, 1962, and most of them were issued permanent certificates in *Sinclair Oil & Gas Company, et al., supra.*

In 1964 United negotiated to sell 93 miles of pipeline serving Dallas and Fort Worth, Texas, to Lone Star for $3,254,415, and to purchase Gathering's facilities and purchase contracts for $3,426,355. On October 30, 1964, United, Gathering, and Lone Star jointly applied in Docket No. CP65–118 for certificates of public convenience and necessity authorizing the necessary abandonments and acquisitions to accomplish this transaction. United also asked for authorization to purchase up to 32,500 Mcf of gas per day from Lone Star so as to enable it to continue service to its customers on the Dallas-Fort Worth line.[2]

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[1] The order in the *Sinclair* case, *supra*, provided for an in-line price of 16 cents per Mcf for sales of gas (and 12 cents per Mcf for sales of sour gas) by independent producers in Texas Railroad Commission District No. 2 under contracts negotiated after September 28, 1960. The effectiveness of this 16 cents price has been stayed by the Commission pending consideration by the United States Court of Appeals of an appeal from the *Sinclair* order.

The applications in Docket No. CP65-118 were consolidated with those in Docket Nos. CP62-179 and CP62-193 on March 16, 1965. The New York Commission filed notice of intervention on April 2, 1965. Prior to the hearing the parties stipulated that the sole issue in dispute was whether the evidence submitted by the applicants constituted adequate proof establishing United's need for Gathering's gas. The New York Commission interpreted this issue as involving two questions: (1) Does United need Gathering's gas in order to meet its customers' present and future requirements? (2) Does United need to obtain the gas at the proposed price?

At the hearing United submitted testimony showing that its annual deliveries of gas had increased by more than 200 billion cubic feet from 1962 to 1964 and that its recoverable reserves had declined by almost 775 billion cubic feet between December 31, 1962 and December 31, 1963. United also stated that it had been unsuccessful in its attempts to locate and obtain under contract large sources of supply other than Gathering's. The participants filed briefs after the conclusion of the hearing. The New York Commission asserted that the applications should be denied, stating that United had not shown a need for the gas, and that its contract price for Gathering's gas was excessively high.

The Examiner's Initial Decision

The examiner approved of all of the authorizations requested, subject to appropriate conditions covering the flow-through of refunds resulting from *Sinclair Oil & Gas Company, et al., supra.* He found that United had established its need for Gathering's gas, and that there was no evidence in the record which justified a conclusion that United did not need this gas because the in-line field price would be 16 cents per Mcf.

The examiner held that United's acquisition of Gatherings' facilities would be advantageous to United and would benefit its consumers by eliminating the gathering and transportation charges in United's cost of purchased gas without an offsetting increase in other elements of United's cost of service. He pointed out that there was virtually an exchange of Gathering's facilities valued at $3,426,355 for United's 93 miles of pipeline valued at $3,254,415, and he found that United's acquisition of Gathering's facilities accordingly would entail only a minuscule increase in United's plant investment.

The New York Commission's Exceptions To The Examiner's Initial Decision

The New York Commission, in its exceptions to the examiner's decision, disputes United's physical need for additional gas and the propriety of the purchase price and costs for this gas. It may be noted that the New York Commission similarly raised this issue in excepting to the examiner's decision in *Sinclair Oil & Gas Company, et al.*, Docket No. G-16760, *et al.*, involving the certificate applications of producers in Texas Railroad Commission District No. 2, many of whom had contracted to sell their gas to Gathering. We there pointed out in Opinion No. 476 (1965), 34 FPC 930, that the New York Commission had not raised this issue at the pre-hearing conference, nor had brought it up at the hearings, and further that its assertions as to lack of need were not persuasive. Accordingly, we held in *Sinclair* that the exceptions of the New York Commission on this point were not appropriate. In the present proceeding, on the other hand, the New York Commission has from a procedural standpoint made a proper and timely intervention. Nevertheless, for the reasons set forth below we find that intervener's exceptions are not persuasive and do not warrant our reversal of the examiner's decision.

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[2] United and Lone Star further applied for certificates of convenience and necessity under Section 7(c) of the Natural Gas Act authorizing the construction of facilities in Wood County, Texas, to enable United to sell to Lone Star, and Lone Star to receive, up to 22,500 Mcf of natural gas per day. These applications are not involved in the disputed question here in issue.

United's Growth Rate

Intervener asserts that United has no need for additional gas because its growth rate is far below the industry average. This argument, however, involves a *non sequitur*, for the New York Commission has ignored the fact that United's current deliveries are so large that even a modest rate of growth will necessitate its acquisition of substantial new supplies and new reserves. The evidence of record shows that United's annual deliveries to its customers rose from slightly in excess of 1000 billion cubic feet in 1952 to 1250 billion cubic feet in 1962, and to 1451 billion cubic feet in 1964. Its peak-day deliveries increased from 3.6 billion cubic feet in 1952–53, to 5.6 billion cubic feet in 1962–63, and to 5.8 billion cubic feet in 1963–64. According to staff computations, United's average growth from 1959 to 1964 was 3.22 percent per year, as compared with the natural gas industry growth rate from 1959 to 1963 of 3.73 percent per year. Applying United's growth rate to its 1964 deliveries of 1451 billion cubic feet, it is plain that United will need a progressively increasing amount of gas starting with an additional 46 billion cubic feet per year each year to keep pace with its own growth rate. This additional volume is three times greater than the 15 billion cubic feet it proposes to obtain from Gathering. Yet, even this calculation is conservative in view of the showing in the record that United's annual deliveries of gas increased by more than 200 billion cubic feet from 1962 to 1964, and that its recoverable reserves declined from 25,814,740 MMcf on December 31, 1962, to 25,039,825 MMcf on December 31, 1963, a decrease of almost 775 billion cubic feet.

Further, the location of Gathering's gas in Texas Railroad Commission District No. 2 specifically meets the need of United for a source of supply which can be connected to United's "West 30-inch Line". United stated that as of January 10, 1962, this line had unused capacity amounting to 119,533 Mcf per day, and that by interconnecting with Gathering's transmission line near Victoria, Texas, such line could be utilized to United's advantage by carrying an additional 40,000 Mcf per day. United also pointed out that it had contracted in 1962 to deliver 75,000 Mcf of gas per day to the Natural Gas Pipeline Company of America, with delivery to be made on United's "West 30-inch Line", and that Gathering's reserves would be needed to help supply Natural Gas Pipeline Company.

In light of the above showing, we find that the examiner was warranted in concluding that United had satisfactorily established its need for the gas in question.

United's Prepayment Situation

The New York Commission states that United is in a serious oversupply situation and has been required to pay more than $22,000,000 for gas which it cannot take. United has explained that it had to make this prepayment to its South Louisiana suppliers because of certain physical difficulties, arising from pipeline limitations, in meeting the demands of its markets in the North Louisiana area, and that it expects to reduce or eliminate its existing prepayments upon construction of storage facilities at Lake Bistineau, Louisiana. Authorization for the construction of these facilities was approved by our order of April 29, 1966 in Docket No. CP66-136, 35 FPC 658. Moreover, as stated above, our approval of United's applications in this proceeding will enable United to make more efficient utilization of its "West 30-inch Line", thus aiding it in meeting the requirements of its North Louisiana customers and in solving its prepayment situation.[3]

United's Purchase Price and Gathering Costs

The New York Commission asserted that the examiner erred in not giving adequate consideration to the high price which United contracted to pay for Gathering's gas and to United's alleged failure to show that it will be able to operate the gathering system more efficiently than Gathering. However, the question of the reasonableness of United's contract price of 21.5 cents per Mcf for Gathering's gas no longer has the same relevance it possessed when the intervener first advanced this issue.

Upon the grant of the applications in Docket No. CP65-118, United will take over Gathering's facilities and operations, and will purchase its gas, not at 21.5 cents per Mcf from Gathering, but instead directly from producers in Texas Railroad Commission District No. 2. Assuming that the Commission's order in *Sinclair* will be sustained upon appeal, United's price to the producers will be 16 cents per Mcf, except for its purchases of sour gas at 12 cents per Mcf. In the event that United's purchases of sour gas will be made in the same ratio to total purchases as those made by Gathering in 1963 and 1964,[4] United's average purchase price should approximate 15.6 cents per Mcf, an amount appreciably lower than the average cost of 17.4 cents which was used as the basis for United's PL-C Rate Schedule. Furthermore, should United's purchase price to the producers remain at Gathering's contract rates of 18 cents per Mcf for gas and 12 cents per Mcf for sour gas, United's average costs should approximate 17.4 cents per Mcf, a figure no higher than the average cost used in its PL-C Rate Schedule.

The fields of the producers under contract to Gathering are located at distances varying from 20 to 60 miles removed from United's "West 30-inch Line". The gas from these fields now flows into United's line by means of a 123-mile pipeline and gathering system which Gathering constructed at a cost of $3,583,860,[5] and which United proposes to purchase for $3,426,355, representing Gathering's depreciated original cost as of June 30, 1964. The reasonableness of this purchase price has not been questioned. United has estimated that its annual costs in operating Gathering's facilities will total $572,762, or approximately $100,000 less than the estimate for this operation previously submitted by Gathering. These operating costs will be rolled into United's overall system cost of service, and according to United's financial data will be so nominal in relation to United's total costs[6] as to afford no basis for any increase in rates to United's jurisdictional customers.

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[3] United's markets in North Louisiana are served by two main lines, its "West 30-inch Line" extending from Refugio, Texas, and its "South-North 30-inch Line", extending up from South Louisiana. United has been operating its "South-North" line at full capacity, but, as noted above, its "West" line had unused capacity amounting to 119,533 Mcf per day as of January 10, 1962. United's proposal to take an average daily rate of 40,000 Mcf through its "West" line from producers under contract to Gathering should afford it greater flexibility in meeting the demands of its North Louisiana markets.

[4] The applicants stated that Gathering's average actual cost of purchased gas was 17.6 cents per Mcf in 1963, and 17.4 cents per Mcf in 1964. On the basis of purchase prices of 18 cents per Mcf for gas and 12 cents per Mcf for sour gas, these averages indicate that Gathering's sour gas purchases constituted about 10 percent of its total purchases.

[5] Gathering's pipeline system consists of a central series of lines which stretch west for approximately 60 miles from a point of connection with United's 30-inch line in Victoria County, Texas, to the Speary Field in Karnes County, Texas. Major branch lines extend north and south from the central lines, and more than 70 supplementary and feeder lines connect into the system.

The New York Commission has argued that United's cost in transporting the purchased gas from the producers' fields to its 30-inch line, an amount calculated at about 3.5 cents per Mcf, must be added to United's average purchase price to such producers, and that the resulting total will clearly exceed the prescribed in-line price for Texas Railroad Commission District No. 2. We find no persuasive merit in this argument. United's assumption of the cost of transporting gas from producer fields to its transmission line is no different from the action of any other pipeline company which assumes the cost of extending its transmission line to a producer field in order to receive into its system gas which it has purchased at an in-line price. The Commission has approved such extensions in the following cases: *Michigan Wisconsin Pipe Line Company*, Docket No. CP65-367; *Northern Natural Gas Company*, Docket No. CP66-320; and *Panhandle Eastern Pipe Line Company*, Docket No. CP66-228.

There is a further specific aspect to this proceeding which merits Commission recognition. The transactions between the applicants as proposed in Docket No. CP65-118 call for the sale by United to Lone Star of United's Dallas-Fort Worth pipeline at the price of $3,254,415. Although this price is stated to represent United's depreciated original cost as of June 30, 1964, United will realize an approximate taxable gain of $1,354,000 on this sale because it has depreciated this pipeline under the Internal Revenue laws to a net value of $1,900,404. The Dallas-Fort Worth line has, in fact, lost much of its former value to United as the result of the expiration of United's contracts to serve the Dallas Power and Light Company and the Texas Electric Service Company. Thus, United's volume of deliveries over this line in 1963 were little more than 8 percent of the volume it had enjoyed prior to such expiration.[7] Under these circumstances, it is plain that United is utilizing to its advantage the opportunity to sell its Dallas-Fort Worth line for an amount equal to 95 percent of the price it agreed to pay for Gathering's pipeline system. The applicants are thus exchanging properties to which they have given substantially similar valuations, and it appears that this exchange is not to United's detriment. The record affords valid basis for the finding of the staff and of the examiner that the price of $3,426,355 to be paid by United for Gathering's facilities will be largely offset by United's receipt of $3,254,415 for its Dallas-Fort Worth line, and that United's assumption of the expenses necessarily involved in operating the gathering facilities will to a great degree be offset by the elimination of the expenses involved in operating the Dallas-Fort Worth line. We accordingly agree with the examiner that United's acquisition of Gathering's facilities will benefit United's consumers by affording them the advantage of a significant decrease in United's cost of purchased gas without an offsetting increase in other elements of United's cost of service.[8]

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[6] United's total cost of service for the year ending March 31, 1962, was $325,731,603. See *United Gas Pipe Line Company*, Docket No. RP63-1, Opinion No. 428, 31 FPC 1180, 1186 (1964).

[7] During the calendar year 1960, the last year in which United made sales to the Dallas Power and Light Company and the Texas Electric Service Company, it delivered a total of 52,754,816 Mcf of natural gas through its Dallas-Fort Worth line. This volume dropped to 4,396,442 Mcf in 1963.

The Minimum-Take Provisions

The minimum-take provisions in Gathering's purchase contracts call for the take of 1 Mcf for each 6,200 Mcf of reserves. Intervener claims that this is an onerous requirement. United's witness at the hearing testified that although this provision would be onerous in some areas of the country, the fields in South Texas have so high a deliverability rate in relation to the quantity of reserves as to pose no problem. Since United has never been forced to pay for gas it could not use in South Texas, as distinguished from its record in South Louisiana, we conclude that this exception does not warrant modification of the examiner's decision.

The Abandonment of United's Dallas-Fort Worth Line

The question of United's transfer of its Dallas-Fort Worth line to Lone Star was not raised as an issue in this proceeding, and no pleading or evidence in opposition to this proposal was submitted. United showed in support of its application for abandonment that the primary purpose for the construction and operation of its Dallas-Fort Worth line was to deliver natural gas to the Dallas Power and Light Company and the Texas Electric Service Company in the Dallas-Fort Worth, Texas area; that United's contracts with these companies expired in 1960 and United no longer serves these customers; and that United will be able to continue service to its remaining customers in this area by an arrangement under which it will purchase gas from Lone Star. Lone Star supplemented United's showing by stating that the Dallas-Fort Worth line can economically and advantageously be integrated into Lone Star's existing pipeline system, and that this integration will result in a greater utilization of such facilities. On the basis of the above showing we agree with the examiner that the proposed abandonment of facilities and service by United is permitted by the public convenience and necessity and should be approved.

The Misrepresentation Issue

Intervener has asserted that Gathering misrepresented certain facts to the Commission in the *Sinclair* proceeding, where it claimed that it was functioning more as a pipeline than as a gatherer, and that this misrepresentation has been disclosed by the showing in this proceeding that only 25 percent of Gathering's investment was expended for its 14-inch transmission line. We do not agree with intervener that Gathering's description of its function in *Sinclair* constituted a misrepresentation. While the evidence in this case shows that the greater portion of Gathering's investment is in field lines rather than in 14-inch transmission mains, the record also shows that Gathering's primary function is to move gas as a pipeline from various producing fields through its lines, both field and transmission, into United's pipeline system. See *Ben Bolt Gathering Company* v. *Federal Power Commission*, 323 F. 2d 610 (CA5–1963).

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[8] It may be noted that prior to the filing of the applications in Docket No. CP65-118, a notice of intervention was filed in Docket Nos. CP62-179 and CP62-193 by the Philadelphia Gas Works Division of The United Gas Improvement Company which raised the question as to whether the terms under which United proposed to purchase gas from Gathering comported with the public convenience and necessity. After the filing of the joint applications in Docket No. CP65-118, Philadelphia Gas withdrew its petition to intervene, stating that the proposals in Docket No. CP65-118 appeared to offer substantial advantages to United, and that Philadelphia Gas did not wish to stand in the way of that transaction, since it assumed that these advantages would inure to the benefit of its customers.

We accordingly approve and adopt the examiner's findings and conclusions with respect to the applications of United, Gathering, and Lone Star, to the extent not inconsistent with the foregoing discussion.

The Commission further finds:

(1) Lone Star Gathering Company, a Texas Corporation having its principal place of business in Dallas, Texas, is engaged in the transportation and sale for resale of natural gas in interstate commerce and is, therefore, a "natural-gas company" within the meaning of the Natural Gas Act.

(2) United Gas Pipe Line Company, a Delaware corporation having its principal place of business in Shreveport, Louisiana, and Lone Star Gas Company, a Texas Corporation having its principal place of business in Dallas, Texas, are "natural-gas companies" within the meaning of the Natural Gas Act.

(3) The facilities constructed and to be constructed by Gathering, United, and Lone Star, and to be acquired by United from Gathering, all as described in the applications in these proceedings, are to be used in the transportation and sale of natural gas in interstate commerce subject to the jurisdiction of the Commission, and the construction and operation thereof by the applicants are subject to the requirements of subsections (c) and (e) of Section 7 of the Natural Gas Act.

(4) The facilities to be abandoned by Gathering and United, all as described in the application in Docket No. CP65–118, are used in the transportation and sale of natural gas in interstate commerce subject to the jurisdiction of the Commission, and the abandonment thereof is subject to the requirements of subsection (b) of Section 7 of the Natural Gas Act.

(5) Applicants are able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(6) The construction and operation of the facilities and proposed facilities by Gathering, Lone Star, and United (including the operation by United of the meter station and related facilities as a check meter station), the proposed sale of gas by United to Lone Star, and the acquisition and operation by United of Gathering's facilities are required by the public convenience and necessity, and certificates therefor should be issued as hereinafter ordered and conditioned.

(7) The proposed abandonments of facilities and service by Gathering and United are permitted by the public convenience and necessity, and approval thereof should be granted as hereinafter ordered.

(8) Public convenience and necessity require that the certificates issued hereinafter and the rights granted thereunder be conditioned upon applicants' compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(3), (c)(4), (d)(2), (d)(3) and (e) of Section 157.20 of such Regulations.

(9) The exceptions to the examiner's decision should be denied.

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Lone Star Gathering Company to construct and operate the facilities heretofore authorized by temporary certificates issued September 7, 1962, and February 6, 1963, in Docket No. CP62–179, all as more fully described in the application in such proceeding, as supplemented.

(B) A certificate of public convenience and necessity is issued authorizing United Gas Pipe Line Company to construct, acquire, and operate the facilities and proposed facilities which it seeks authorization to construct, acquire, and operate; and to sell, transport, and deliver natural gas as hereinbefore described; all as more fully described in the applications, as supplemented and amended in Docket Nos. CP62–193 and CP65–118, as supplemented, upon the terms and conditions of this order.

(C) A certificate of public convenience and necessity is issued authorizing Lone Star Gas Company to construct and operate the proposed facilities which it seeks authorization to construct and operate; and to transport and deliver natural gas as hereinbefore described; all as more fully described in the application in Docket No. CP65–118, as supplemented, upon the terms and conditions of this order.

(D) Permission for and approval of the abandonment by Gathering of the facilities heretofore constructed and now being operated by Gathering, and of the service rendered by it, pursuant to temporary certificates issued September 7, 1962, and February 6, 1963, in Docket No. CP62–179, all as hereinbefore described and as more fully described in the application in Docket No. CP62–179, are granted subject to the agreement contained in Gathering's letter filed September 19, 1963, in Docket No. CP62–179, providing that Gathering will pass on to United any reduction in its weighted average cost of purchased gas which may result from the Commission's order accompanying Opinion No. 476 issued September 22, 1965, in *Sinclair Oil & Gas Co., et al.*, Docket No. G–16760, *et al.*, or other pertinent Commission action.

(E) The certificate issued by paragraph (B) above and the rights granted thereunder are conditioned upon United's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(3), (c)(4), (d)(2), (d)(3), and (e) of Section 157.20 of such Regulations.

(F) The certificate issued by paragraph (C) above and the rights granted thereunder are conditioned upon Lone Star's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(3), (c)(4), and (e) of Section 157.20 of such Regulations.

(G) Permission for and approval of the abandonment by United of the facilities hereinbefore described, all as more fully described in the application in Docket No. CP65–118, as supplemented, are hereby granted.

(H) United and Gathering shall advise the Commission of the date of abandonment of facilities authorized in paragraphs (D) and (G) above within ten days of such abandonment.

(I) The facilities hereby authorized shall be constructed and placed in actual operation, and the sales, transportations, and deliveries of natural gas authorized in paragraphs (B) and (C) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within six months from the date on which this order issues.

(J) The certificate issued by paragraph (B) above and the rights granted thereunder are conditioned to require that United flow through to its customers any refunds which it may receive from Gathering or from producers selling directly to United as provided for in the Commission's "Order Approving Rate Settlement and Requiring Retention of Certain Refunds," issued December 23, 1964, in *United Gas Pipe Line Co.*, Docket No. RP61–18, *et al.*, 32 FPC 1515.

(K) After Gathering has abandoned the facilities for which authorization is granted herein, Gathering shall file with the Commission a notice of cancellation of its service agreement with United and of its FPC Gas Tariff Original Volume No. 1.

(L) The examiner's decision, to the extent not inconsistent herewith, is adopted as part of this Opinion and order.

(M) The exceptions to the examiner's decision are denied.

(N) The motion for opportunity to present oral argument before the Commission is denied.

Commissioner Ross *concurring*.

Ross, *Commissioner, concurring:*

I concur generally with the result reached by the majority. However, my principal concern is with the failure of the majority to repudiate its decision not to consider the issue of the public's need for gas in producer certificate cases, which decision, I believe, is contrary to the responsibilities of the Commission under the Natural Gas Act.[1] The majority's attempt to duck this issue here, while possibly indicating some retreat from its earlier position, will cause unnecessary confusion in the future.

The reason the majority happened to announce this rather surprising "policy" is quite simple, if indefensible. In the predecessor *Sinclair* case and in two other contemporaneous proceedings, the New York Public Service Commission advanced the contention that the public did not need the gas at the prices sought by the producers.[2] This presented a fairly awkward situation since there was virtually no evidence in the record in any of the cases demonstrating a need for additional gas, much less a need at the prices requested. The majority in those proceedings recognized this inadequacy in the records of these cases, and rather than denying the applications or remanding the proceedings, forthrightly resolved the matter by foisting the issue to pipeline certificate proceedings. The majority stated in *Hawkins & Hawkins:* "The issue of public need should be confined to pipeline certificate proceedings, not producer applications."

This proceeding is nothing more than the unhappy product of the majority's failure to consider public need in passing on producer certificate applications in *Sinclair*. Actually, the applications consolidated here are routine in nature, involving the construction, acquisition and abandonment of pipeline facilities. Under normal circumstances these applications would be granted under the abbreviated hearing procedure. The only litigated issue in this case is the public's need for the gas, which has already been certificated in *Sinclair* based on the finding that such sales "* * * are required by the public convenience and necessity."

There are obvious difficulties with the majority's determination in *Hawkins* which the majority may or may not follow in the future. One is that the approach is illegal. In quite simple English, the Natural Gas Act plainly requires this Commission to consider the public's need for additional gas in considering applications to sell gas in interstate commerce and not at some later time. Excluding language irrelevant here, Section 7(e) of that Act provides:

> A certificate shall be granted authorizing the sale covered by an application if it is found that the proposed sale is or will be required by the public convenience and necessity; otherwise, such application shall be denied.

Indeed the Commission orders granting certificates authorizing the sale of gas in interstate commerce uniformly contain these findings:

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[1] *Hawkins & Hawkins, et al.*, Docket No. G–18077, *et al.*, Opinion No. 475, September 22, 1965, 34 FPC 897.

[2] *Sinclair Oil & Gas Co., et al.*, Docket No. G–16760, *et al.*, decided September 22, 1965, Opinion No. 476, 34 FPC 930; *Hawkins & Hawkins, supra; Turnbull & Zoch, et al.*, Docket No. G–17960, *et al.*, Opinion No. 478, September 30, 1965, 34 FPC 1001.

1. Such sales are subject to the requirements of subsections (c) and (e) of Section 7 of the Natural Gas Act.

2. The sale of natural gas as proposed by the applicant, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity.

In a previous case, the Supreme Court emphasized the importance of the Commission's responsibilities in considering, in the initial certification proceeding, producer applications to sell gas in interstate commerce.[3] After reviewing the relationship of certain sections of the Act, the Court observed:

> In view of this framework in which the Commission is authorized and directed to act, the initial certificating of a proposal under §7(e) of the Act as being required by the public convenience and necessity becomes crucial. (360 U.S. 389)

Moreover, the Supreme Court declared:

> Their proposals must be supported by evidence showing their necessity to 'the present or future public convenience and necessity' before permanent certificates are issued. This is not to say that rates are the only factor bearing on the public convenience and necessity, for §7(e) requires the Commission to evaluate all factors bearing on the public interest. (360 U.S. 391)

Interestingly, that case also involved the claim that the public's need for the gas would be adequately considered in a related pipeline certification proceeding, which was pending at that time. This did not satisfy the Supreme Court:

> Nor do we find any support whatever in the record for the conclusory finding on which the order was based that "the public served through the Tennessee Gas system is greatly in need of increased supplies of natural gas." (360 U.S. 393)

While the Court recognized that the issue of the public's need for the gas was present in the pipeline case, the Court observed that:

> * * * the two dockets were not consolidated and the Presiding Examiner conditioned his approval here on the granting of the application in Docket G–11107, no part of which record is here. (360 U.S. 393)

The concurring statements of Justices Harlan and Frankfurter would have reversed the Commission's decision on the sole ground that there was no evidence in the record to support the conclusion that the public convenience and necessity required the issuance of unconditioned certificates.

I find it a little surprising that the majority would so quickly forget the *CATCO* case.

Another difficulty with the majority's approach is that the important question of the public's need for gas will never be considered in some cases. This unfortunate, if not unforeseeable situation will occur in those situations where pipelines purchase additional volumes of gas under budget-type certificates. Under such certificates, pipelines have authority to attach new supplies of gas, normally for successive one year periods. Other than in connection with the producer application, the public interest aspects of the additional supplies purchased under budget-type certificates never come before the Commission. Thus, it is conceivable that the Commission might be able to determine whether the public generally needs more gas in such budget-type proceedings; but the Commission clearly could not consider whether such additional volumes of gas, in consideration of the terms under which the sale would be made, are required by the public interest. In these circumstances, unless the Commission considers the question of public need in connection with a producer application, it will never consider the question.

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[3] *Atlantic Refining Co.* v. *P.S.C. of N.Y.*, 360 U.S. 378.

While one can understand why the Commission would adopt a pragmatic approach when faced with a perplexing situation in those earlier cases,[4] one could hope that the Commission would call a halt to such nonsense after fussing with this case. But no. The majority bravely refuses either to affirm or to reject the illogical, illegal and impractical determination made in *Hawkins*.

There is one further point. On pages 503–504 of the opinion, the majority justifies United's application to acquire a supply lateral from Lone Star Gathering partially on the basis that the cost of such facilities are offset by the costs of other facilities Lone Star Gas seeks to acquire from United. In my opinion, this finding is clearly unnecessary and erroneous. I cannot accept the proposition that a pipeline's disposition of facilities no longer used or useful in its operations has any relevance to the merits of its proposed acquisition of a completely unrelated supply lateral. In any event, the cost of United's line is not eliminated as the majority seems to believe. Rather the cost, and then some, is merely transferred from United's customers to those of Lone Star Gas. I suppose this kind of reasoning is what some would call the irrational dimension of regulation.

INITIAL DECISION

OF THE PRESIDING EXAMINER UPON APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND APPLICATIONS FOR ORDERS PERMITTING ABANDONMENT OF FACILITIES AND SERVICE

(Issued February 16, 1966)

PURDUE, *Presiding Examiner:* These interrelated certificate and abandonment proceedings, heard on a consolidated record, necessitate a complicated statement of what the applicants seek. However, by stipulation of the parties, the issues have been narrowed to the question whether United Gas Pipe Line Co. (United) has need for certain gas involved in one of the applications. More particularly, this disputed question is: Does United have a need, at the price it is required to pay, for approximately 40,000 Mcf per day which that company agreed to purchase from Lone Star Gathering Co. (Gathering), over the period of long-term gas purchase contracts committing 305 billion cubic feet of reserves to Gathering, to be produced from certain properties in Texas Railroad District No. 2, which contracts Gathering has now agreed to assign to United? In addition, the Examiner called for an explanation of a tax profit by United resulting from one of the transactions involved.

Docket No. CP62–179. By an application filed in 1962, in Docket No. CP62–179, Gathering seeks a certificate of public convenience and necessity under Section 7(c) of the Natural Gas Act authorizing it to construct and operate a 24.4-mile, 14-inch transmission pipeline in south Texas, extending in a southeasterly direction from a point near the De Witt-Victoria Counties line to a point about 7 miles southeast of Victoria, Texas, and interconnecting with United's "West 30-inch Line" extending from Refugio, Texas, to Monroe, Louisiana. Gathering further seeks authorization to sell to United for resale an annual contract volume, transported in its pipeline, equal to a daily average of 40,000 Mcf. Gathering's transmission facilities were constructed and are operated under temporary certificates issued September 7, 1962 and February 6, 1963.

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[4] See footnote 2, *supra*.

Docket No. CP62-193. By an application in Docket No. CP62-193, filed in 1962, United seeks a certificate of public convenience and necessity under Section 7(c) authorizing it to construct and operate a purchase meter station and related facilities in order to receive into its existing system the gas it purchases from Gathering. Such facilities have been constructed and are now being operated under temporary certificates issued September 7, 1962 and November 15, 1963. In addition, if United is authorized to acquire and operate Gathering's facilities, United seeks, as an amendment to its application, a certificate authorizing it to utilize the meter station and related facilities as a check meter station.

Docket No. CP65-118. By a joint application in Docket No. CP65-118, filed in October 1964, Gathering seeks permission and approval under Section 7(b) of the Act (upon its receipt of the certificate requested in Docket No. CP62-179) to abandon, by sale to United, the facilities, and service rendered thereby, constructed and operated under the temporary authorizations in Docket No. CP62-179. United seeks a certificate of public convenience and necessity under Section 7(c) authorizing it to acquire from Gathering and to operate the transmission pipeline facilities constructed by Gathering.

Furthermore, United seeks permission and approval under Section 7(b) to abandon, by sale to Lone Star Gas Co. (Lone Star), that portion of United's Dallas-Fort Worth main line and appurtenant facilities from a point near Wills Point, Van Zandt County, Texas, to its terminus 93 miles to the west in the area of Fort Worth, Tarrant County, Texas.

Two other requests in the application in Docket No. CP65-118, immaterial to the disputed question here presented, involve proposed facilities in north Texas. United seeks a certificate of convenience and necessity under Section 7(c), (a) to construct and operate dehydration, measuring, and related facilities near the discharge side of its Mineola compressor station, Wood County, Texas, for the purpose of transporting and selling up to 22,500 Mcf of natural gas per day in interstate commerce to Lone Star pursuant to United's Rate Schedule PL-C; and (b) to sell such gas to Lone Star. Lone Star seeks a certificate of convenience and necessity under Section 7(c) authorizing it to construct and operate approximately 12 miles of 8-inch pipeline and appurtenant facilities, extending from a point on its "Line 0" in a southwesterly direction to a point near the discharge side of United's Mineola compressor station, to enable Lone Star to receive quantities of natural gas to be purchased from United.

The participants, Lone Star, Gathering, United, intervenor Public Service Commission of the State of New York, and the Staff of the Federal Power Commission, stipulated in writing that the applications as supplemented should be incorporated in the record by reference as evidence "in proof of all issues inherent in these proceedings," except that "the New York Commission does not agree that such evidence constitutes adequate proof in establishing United's need for this gas. On this sole issue remaining in dispute, * * * further relevant evidence may be offered. * * *"

The proceedings came on for hearing before the Examiner on November 16, 1965, and concluded the same day. The stipulation and applications were received in evidence, and oral evidence was introduced through a witness on behalf of United. This witness was cross-examined by the New York Commission and the Federal Power Commission Staff; and documentary evidence was introduced by the New York Commission. The participants filed briefs after the conclusion of the hearing, applicants' reply brief being filed on January 14, 1966. On February 3, 1966, the hearing was reopened for the receipt of evidence upon questions raised by the Examiner. A witness on behalf of United testified, being cross-examined by the Federal Power Commission Staff; and documentary evidence was introduced by United and Lone Star. The reopened hearing was concluded the same day, and the proceedings were submitted for consideration and decision without the filing of additional briefs. The Staff takes the position that the certificates should issue; the New York Commission, that they should be denied.

PRELIMINARY FINDINGS

The evidence establishes the following facts:

United is a large transporter and wholesaler of natural gas, operating an integrated pipeline system serving markets in Texas, Louisiana, Mississippi, Alabama, and Florida. It supplies part of the requirements of transmission pipelines serving the Appalachian area, the Atlantic seaboard, and portions of the Midcontinent area. Lone Star owns and operates a natural-gas transmission and distribution system in Texas and Oklahoma, through which it transports natural gas in interstate and intrastate commerce. It has a separate system in Texas through which it transports and sells gas only in intrastate commerce.

Gathering, a wholly owned subsidiary of Lone Star, is engaged in purchasing from producers, gathering, transporting, and selling natural gas produced in De Witt, Goliad, Karnes, and Victoria Counties, Texas, in Texas Railroad Commission District No. 2. Said applicant purchased the gas under numerous contracts, entered into after September 28, 1960, and having a term of 20 years or longer. The contract price is 18¢ per Mcf, except for two contracts involving the sale of sour gas, where the price is 12¢ per Mcf. Said applicant gathers the gas through about 101 miles of 2½- to 12-inch pipeline and transports it to United by means of its 14-inch main transmission line. These facilities are isolated from the system of Lone Star.

Under a service agreement entered into on December 14, 1962, between Gathering and United, United agreed to purchase from Gathering a minimum average of 40,000 Mcf of gas per day, or approximately 14.6 billion cubic feet per year, to be transported in the 14-inch line. The stipulated place of delivery is a point on United's "West 30-inch" Refugio-Monroe line, approximately 7 miles southeast of Victoria, Texas; and the contract price is 21.5¢ per Mcf delivered.

The primary purpose of United's West 30-inch Line is to move available gas reserves from the south Texas area to United's north Louisiana area. The total cost of the facilities which Gathering constructed is $3,583,860, of which approximately $900,000 was expended for the 14-inch transmission line. The design and cost of Gathering's facilities are reasonable and proper. Gathering's facilities have been, or are to be, financed by the sale to Lone Star of 37,000 shares of common stock at the par value of $100 per share.

Gathering commenced deliveries of gas to United, its sole customer, on June 19, 1963. During 1964 United's average purchases from Gathering amounted to 41,817 Mcf per day, or an annual volume of 15,263,119 Mcf.

In September 1963, Gathering filed a letter in Docket No. CP62-179 whereby it agreed, in the event a final certificate were issued to it, to pass on to United any reduction accruing to Gathering in its weighted average costs of purchased gas as a result of the final disposition of the suppliers' certificate applications. At the hearing, Gathering reiterated this commitment. On September 22, 1965, the Federal Power Commission issued its Opinion No. 476 in *Sinclair Oil & Gas Co., et al.*, Docket No. G-16760, *et al.*, 34 FPC 930, wherein it held that the in-line price in Texas Railroad Commission District No. 2 for gas sold under contracts executed after September 28, 1960, is 16¢ per Mcf. An appeal was taken to the United States Court of Appeals from such order, which is now pending.

On September 2, 1964, Lone Star, Gathering, and United entered into a contract whereby, *inter alia*, Gathering agreed to sell, and United to buy, Gathering's gathering lines and transmission line above described, and all of its contracts for the purchase of gas to supply the requirements of such pipelines. The purchase price is $3,426,355, representing Gathering's depreciated original cost thereof as of June 30, 1964 as reported by said parties; and is subject to adjustment at the time of closing for additions, retirements, and depreciation made or accrued during the interim. Three hundred and five billion cubic feet of reserves would be committed to United under the reserve determination provisions of the producer contracts. This gas supply is reasonably adequate to support the proposed acquisition. The total daily volume of gas which United would be obligated to take or pay for, when all the producer contracts have been assigned to United, would be the same as United's present obligation to take gas deliveries from Gathering, 40,000 Mcf daily. United would finance the acquisition from current working funds.

United has indicated to the Federal Power Commission Staff that it would accept an order issuing a certificate to it authorizing its acquisition of the facilities of Gathering, subject to a condition requiring it to flow through to its customers any refunds it may receive from Gathering, or from producers selling gas directly to United which moves in such facilities.

Relative to United's application in Docket No. CP62–193, United estimated that the construction of the purchase meter station and related facilities would cost $38,772. The construction of the station and related facilities was financed out of current working funds. Upon the acquisition of the facilities of Gathering by United, it would be necessary that the meter station and related facilities be utilized as a check meter station so as to enable United to determine the volumes of gas coming from the producing area traversed by the facilities acquired.

Relative to Docket No. CP65–118, in the contract of September 2, 1964, United agreed to sell, and Lone Star to purchase, the portion of United's Dallas-Fort Worth main line and appurtenant facilities which United seeks permission to abandon by sale to Lone Star. United formerly operated this line and the appurtenances primarily for selling natural gas to two power companies in the Dallas-Fort Worth area. United no longer serves these customers. Utilization of such line declined from 52.7 MMMcf in 1960 to 4.4 MMMcf in 1963. Thus, United has capacity in that portion of its main line over and above its present or future needs in the area. Lone Star can economically and advantageously integrate the facilities into its existing intrastate pipeline system. Such facilities will enable Lone Star to transport natural gas produced in East Texas to the Dallas-Fort Worth metropolitan complex, where it engages in the natural-gas distribution business, thereby resulting in greater utilization and more effective operation of the facilities. Hence, the proposed abandonment of these facilities in the manner sought by United will be compatible with the public interest and beneficial to the customers of both United and Lone Star.

United will not discontinue any service now rendered by it in the area served by the portion of its Dallas-Fort Worth line which it seeks to abandon. In order to continue such service and to provide service to any new customers, United will purchase natural gas from Lone Star, delivered from Lone Star's intrastate system.

The price to be paid by Lone Star to United for the Dallas-Fort Worth facilities is $3,254,415. The Examiner reopened the hearing because of a finding proposed by applicants concerning this transaction and because of questions growing out of proposed book accounting for the transaction. The proposed finding recited that the cost of acquisition represented United's "depreciated book cost" as of June 30, 1964. From the application, however, it appeared that Lone Star proposed to record the $3,254,415 on its books as being original cost depreciated. Hence, it was not clear whether by the term "depreciated book cost" applicants meant "depreciated original cost." Furthermore, an exhibit to the application, after setting out the purchase price states, "The proposed sale will result in a taxable gain to applicant [United] and the resulting federal income tax will be approximately $423,000." In its proposed accounting treatment for the income tax liability, United debits this amount to Account No. 435, "Miscellaneous Debits to Surplus," and credits it to Account No. 236, "Taxes Accrued." The tax liability of $423,000 indicates a large tax profit on a $3,254,415 transaction, and the record was silent as to how the profit was determined. In the circumstances, questions were raised in the Examiner's mind whether there was a similar book profit that had not been properly set forth in the proposed accounting; and if so, what should be the accounting treatment, and whether the book profit considerations were a sufficient ground for rejecting the application, or if the application were granted, for conditioning the authorization upon a proper accounting treatment.

At the reopened hearing, applicants represented that the cost of acquisition, $3,254,415, was the amount of the original cost, less accrued depreciation as of June 30, 1964. United adduced evidence that the taxable gain resulted from varying tax depreciation rates applied by United (in its tax returns) on the property in question, over the years since the transmission mains were installed in 1927, being substantially in excess of corresponding (and varying) book rates of depreciation over the same period. The Examiner accepts the explanation of United that it is selling the properties at original cost depreciated, that no book profit is involved, and that the proposed accounting entries are proper and entirely in accordance with prescribed accounting under the Commission's Uniform System of Accounts.

The $3,254,415 is subject to adjustment at the time of closing for additions and retirements, and for depreciation made or accrued during the interim. Lone Star would finance the acquisition from current working funds.

Concerning the authorizations requested by applicants in Docket No. CP65-118 on the proposed facilities and operations in Wood County, Texas, United and Lone Star have entered into an agreement for United to sell and Lone Star to purchase up to 22,500 Mcf of natural gas per day to supplement Lone Star's general system supply for northeastern Texas and southwestern Oklahoma customers. The total construction cost of the facilities United proposes to install is estimated to be $207,494; those of Lone Star, $208,700. The design and estimated costs of such facilities are reasonable and proper. Each applicant has the ability to finance its proposal. A market now exists for the volumes of gas which United proposes to sell to Lone Star.

DISCUSSION

United's Need for the Daily Volume of 40,000 Mcf. The New York Commission contends that United does not need the gas involved in its transactions with Gathering. That Commission points out that at the end of 1963 (the latest date for which United's gas reserves are shown), United's reserve-to-production ratio was 18.2 years; and avers that United is a company of "exceedingly limited growth." This position is without merit. The evidence establishes that United needs the approximately 300 billion cubic feet of reserves in order to meet constantly increasing annual and peak-day demands placed on it by its customers, to replace the gas being delivered to its customers, and to assist it in assuring a dependable natural-gas service for its markets. United's reserve-to-production ratio has declined; at the end of 1962 the ratio was 20 years. The evidence shows that United's annual deliveries to its customers rose from slightly in excess of 1000 billion cubic feet in 1953 to 1250 billion cubic feet in 1962, and to 1451 billion cubic feet in 1964. Its peak-day deliveries increased from 3.6 billion cubic feet in 1952–53 to 5.6 billion cubic feet in 1962–63, and to 5.8 billion cubic feet in 1963–64.

The evidence shows that United's growth is sufficient to justify the addition of the increment to its reserves. On an annual basis, United delivered 110 billion cubic feet more gas in 1963 than in 1962; and 90 billion cubic feet more in 1964 than in 1963. Translated into Mcf per day, these volumes represent an increase of 300,000 Mcf on an average day in 1963; and an average day increase of 250,000 Mcf in 1964. From the heating season 1960–61 through that of 1963–64, United's peak-day deliveries increased by 800 million cubic feet, or an average of 200,000 Mcf during the period.

Furthermore, the gas reserves in question are particularly attractive to United because their location permits United to utilize unused capacity in its West 30-inch Line. During the three years prior to the peak day January 10, 1962, the reserves supplying this line diminished; so that on such date there was unused capacity of 119,533 Mcf in such line—a problem alleviated by the gas delivered into the line from Gathering's system.

The evidence shows that in providing service to United's customers in the north Louisiana area, there is need during peak and near-peak periods for all of the capacity available in the West 30-inch Line, as well as the entire capacity of a line of United from south Louisiana known as the "North-South 30-inch Line." Also, United utilizes the gas purchased from Gathering in making deliveries of 75,000 Mcf per day to Natural Gas Pipeline Co. of America, at a point on the West 30-inch Line, pursuant to an agreement with Natural consummated in 1962.

The New York Commission points to "a major take-or-pay problem" of United. United has paid over $22,000,000 for gas in south Louisiana which it has been unable to take into its system. But the south Texas purchase in question does not adversely affect the take-or-pay situation.

The evidence shows that although United has some take-or-pay contracts in south Texas, none of the take-or-pay provisions was triggered by the purchase of Gathering's gas. Despite the take-or-pay provisions in the south Texas contracts, it is the opinion of United's witness that United will not have to pay for any gas in that area which it does not take. The witness testified that the deliverability characteristics of the south Texas gas are such that the producers will deliver more gas to United on the peak day than United is contractually obligated to take. Inasmuch as the south Texas gas can be produced at rates considerably in excess of the contractual take-or-pay obligations, United estimates that it can so average the annual takes as to avoid take-or-pay-for payments. The Examiner finds that United does not stand to have to make prepayments for gas to its south Texas suppliers.

The record shows that United's purchase from Gathering has tended to prevent the take-or-pay problem from worsening. To the extent that United has to increase the amount of gas from south Louisiana in order to supply the peak demands in the north Louisiana area, it increases the volumes of gas it must annually take or pay for in south Louisiana by virtue of its contract provisions. Conversely, to the extent that the peak demands of the north Louisiana customers can be served from south Texas, the necessity for purchasing gas in south Louisiana and having to take or pay for the corresponding annual quantity is reduced.

United's witness is further of the opinion that the Bistineau gas storage field in north Louisiana, for the development of which United has recently filed an application, will "reduce, if not entirely eliminate," the take-or-pay-for problem in south Louisiana.

The Examiner finds and concludes that there is a market, and a need on the part of United, for the gas in Texas Railroad Commission District No. 2 here involved, delivered at the daily average of 40,000 Mcf.

United's Need for the Gas at the Prices Involved. The New York Commission contends that in any event, United does not need the gas at the prices in question. Gathering's rate to United is comprised of two elements: (1) the field prices which Gathering pays, and (2) Gathering's charge for gathering and transporting the gas to United's pipeline. Insofar as the New York Commission's argument is directed to the in-line field price of the gas, the question arises whether said intervenor is barred from raising the issue by *Sinclair Oil & Gas Co., et al., supra.* Those proceedings involved 41 applications for permanent certificates for sales of gas in Texas Railroad Commission District No. 2 to certain buyers, including "Lone Star Gathering Company (for resale to United Gas Pipe Line Co.)." Many of Gathering's suppliers were applicants in such proceedings. The Commission held that the sale of natural gas as proposed was required by the public convenience and necessity at prices (as to contracts executed after September 28, 1960) not greater than 16¢ per Mcf, fixed by the Commission as "the correct post-policy in-line price."

The New York Commission, a party intervenor in those proceedings, in exceptions to the Examiner's decision, asserted that the applications should be denied because of an absence of evidence of a public need for the gas. In response, the Commission said:

> This issue was not raised at the pre-hearing conference * * *, nor was it brought up at the hearings. * * * The New York Commission's evidence as to lack of need is not, in our judgment, persuasive. We find the exceptions of the New York Commission not appropriate in the present posture of this proceeding, particularly so, since such exceptions were raised after the certification of the pipeline purchasers had been authorized, and on the basis of a record which discloses no question as to need for the gas supply involved.

Applicants and the Staff argue that the New York Commission is precluded from retrying the price issue, and cannot collaterally attack the opinion and order in *Sinclair.* However, upon the authority of two other Commission opinions, the New York Commission, in raising the question of United's need for the gas at the in-line field price, is not retrying an issue involved in *Sinclair* or collaterally attacking that decision. In *H. L. Hawkins & H. L. Hawkins, Jr., et al.*, Opinion No. 475, 34 FPC 897, a producer in-line price case issued the same day as *Sinclair*, the Commission held that the producer sales there involved were "required by the public convenience and necessity." But in so holding, the Commission ruled that the question of public need for the gas was without the purview of "public convenience and necessity" as employed in producer in-line price cases, stating, "The issue of public need should be confined to pipeline certificate proceedings, not producer applications." The Commission followed this ruling in the producer in-line price case *Turnbull & Zoch Drilling Co., et al.*, Opinion No. 478, 34 FPC 1001, where distributors contended that the producers' presentations were deficient in failing to show that there was a public need for the gas there involved at 15¢ per Mcf.

There is no evidence which justifies a conclusion that United does not need the gas here in question because the in-line field price is 16¢. The record discloses that within the period of about a year prior to the hearing. United entered into four contracts for the purchase of gas from producers, in the Gulf Coast of Texas and south Louisiana, at a lesser price than 16¢. However, these contracts only concerned small volumes from a few wells having a short remaining life. The Examiner finds and concludes that United has a need for the gas in question, taking into account the in-line price of 16¢.

The New York Commission also objects to the element in Gathering's rate consisting of the charge for gathering and delivering the gas to United's pipeline. It has been seen that this service consists in Gathering's collecting the gas in its 101 miles of gathering lines and transporting it a distance of 24.4 miles. In 1963, the component of Gathering's rate for such service was 3.9¢; and in 1964, 4.1¢.[1] After the Federal Power Commission, on September 22, 1965, fixed the producer in-line price in Texas Railroad Commission District No. 2, this component of Gathering's rate continued to be on the order of 4.1¢.[2]

The charge for the gathering and transportation would seem to be high. It raises a question whether a full hearing should be had to determine if a condition attached to the certificate issued Gathering effecting a reduction in this element in Gathering's rate would be reasonable and required by the public interest. An offsetting consideration is the fact that Gathering has agreed to flow through to United the reductions in its weighted average cost of purchased gas. Upon the final disposition of the appeal in *Sinclair*, which the Examiner necessarily assumes to be a valid opinion and order (*Northern Natural Gas Co.*, 11 FPC 278, 281–82), the 18¢ wellhead purchases will be reduced to 16¢. The reduction which will flow through to United should be on the order of $216,000 per annum.[3]

It is unnecessary, however, to go into the question of conditioning the authorization which Gathering seeks by a reduction in its rate to United. For this question becomes moot if, as the Examiner believes should be done, the authorization sought by United in Docket No. CP65-118 is granted. Since United will acquire the facilities of Gathering and will itself make the field purchases, there will no longer be a gathering and transportation charge by Gathering. Hence, there is no need or occasion to condition the authorization which Gath-

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[1] In their reply brief, applicants concede that in 1963, Gathering paid an average price for the gas of 17.6¢ per Mcf; and in 1964, an average price of 17.4¢ per Mcf. Hence, in 1963 there was a spread of 3.9¢ between the price Gathering paid and Gathering's price to United of 21.5¢ per Mcf delivered; and in 1964 the spread was 4.1¢.

[2] The record does not show the actual volume of purchases affected by the in-line price. However, an approximation can be made from an estimate in the record of Gathering's annual field purchases, filed by it with the Commission on June 12, 1963. According to the estimate, Gathering would purchase 10,818,965 Mcf @ 18¢, and 4,249,695 Mcf @ 12¢, for a combined total of 15,068,660 Mcf at an average weighted unit cost of 16.31¢. Gathering's experience since operations commenced differs somewhat from this estimate (see note 1, *supra*), but the estimate will suffice for the purpose of an approximation. A reduction of 2¢ per Mcf related to the 10,818,965 Mcf purchase cost and a flow-through of this reduction in the selling price to United, gives a spread to Gathering of 4.10¢.

[3] See itemization below:

10,818,965 Mcf at 18 cents (Note 2, supra)	$1,947,414
4,249,695 Mcf at 12 cents (Note 2, supra)	509,963
15,068,660 Mcf, total cost	2,457.377
10,818,965 Mcf at 16 cents	1,731,034
4,249,695 Mcf at 12 cents	509,963
15,068,660 Mcf, total cost	2,240,997
Reduction in weighted average costs	216,380

ering seeks in the manner above stated. "The law forces no one to do vain or useless things." "Equity will not require that to be done which if done would be useless."

Acquisition by United of Gathering's Facilities. The record discloses that the acquisition by United of Gathering's facilities is advantageous to United and its customers. United will have pipeline facilities in a gas producing area not now traversed by its facilities, and direct control of the existing gas purchase contracts and the gas dedicated thereunder to the service of such facilities, as well as the opportunity in the future to purchase additional gas to satisfy the demands of its customers. Also, the facilities can be integrated into United's system, and United will have greater flexibility in the operation of its pipeline system and the receipt of gas deliveries in the area.

Furthermore, as the Staff points out, United's acquisition of Gathering's facilities will benefit United's consumers by affording them the advantage of the significant decrease in United's cost of purchased gas resulting from the elimination of the gathering and transportation charge, without an offsetting increase in other elements of United's cost of service. By the contract of September 2, 1964, between Lone Star, Gathering, and United, there is a virtual exchange of Gathering's facilities for the segment of United's Dallas-Fort Worth line. It has been seen that Gathering is selling its facilities to United for $3,426,355 and that United is selling the portion of the Dallas-Fort Worth line to Lone Star for $3,254,415, each price, according to applicants' representations, being at depreciated original cost. Hence, the acquisition by United of Gathering's facilities will entail only a minuscule increase in United's plant investment.

The Examiner concludes that all of the authorizations sought should be granted, subject to appropriate conditions covering the flow-through of refunds by reason of the reduction in cost of purchased gas resulting from the Commission's order in *Sinclair*.

FINDINGS AND CONCLUSIONS

Upon consideration of the evidence adduced and the briefs of counsel, it is further found and concluded that:

(1) Applicant Lone Star Gathering Company, a Texas Corporation having its principal place of business in Dallas, Texas, is engaged in the transportation and sale for resale of natural gas in interstate commerce and is, therefore, a "natural-gas company" within the meaning of the Natural Gas Act.

(2) Applicants United Gas Pipe Line Company, a Delaware corporation having its principal place of business in Shreveport, Louisiana, and Lone Star Gas Company, a Texas corporation having its principal place of business in Dallas, Texas, are "natural-gas companies" within the meaning of the Natural Gas Act as heretofore found by the Commission in its orders of January 20, 1942, in Docket No. G-216, 3 FPC 3, and of April 11, 1944, in Docket No. G-442, 4 FPC 565, respectively.

(3) The facilities constructed and to be constructed by Gathering and United, and to be acquired by United from Gathering, as hereinbefore described, are to be used in the transportation and sale of natural gas in interstate commerce subject to the jurisdiction of the Commission; and the facilities to be constructed by Lone Star, as hereinbefore described, are to be used in the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission—all as more fully described in the applications in these proceedings—and the construction and operation thereof by said applicants are

subject to the requirements of subsections (c) and (e) of Section 7 of the Natural Gas Act.

(4) The facilities to be abandoned by Gathering and United as hereinbefore described, all as more fully described in the application in Docket No. CP65-118, are used in the transportation and sale of natural gas in interstate commerce subject to the jurisdiction of the Commission, and the abandonment thereof is subject to the requirements of subsection (b) of Section 7 of the Natural Gas Act.

(5) Applicants are able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(6) The construction and operation of the facilities and proposed facilities by Gathering, Lone Star, and United (including the operation by United of the meter station and related facilities as a check meter station), the proposed sale of gas by United to Lone Star, and the acquisition and operation by United of Gathering's facilities are required by the public convenience and necessity, and certificates therefor should be issued as hereinafter ordered and conditioned.

(7) The proposed abandonments of facilities and service by Gathering and United are permitted by the public convenience and necessity, and approval thereof should be granted as hereinafter ordered.

(8) Public convenience and necessity require that the certificates issued hereinafter and the rights granted thereunder be conditioned upon applicants' compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(3), (c)(4), (d)(2), (d)(3) and (e) of Section 157.20 of such Regulations.

ORDER

WHEREFORE, *It is ordered*, subject to review by the Commission on appeal, or review by the Commission on its own motion, as provided in its Rules of Practice and Procedure, that:

(A) A certificate of public convenience and necessity is hereby issued authorizing applicant Gathering to construct and operate the facilities heretofore authorized by temporary certificates issued September 7, 1962, and February 6, 1963, in Docket No. CP62-179, all as more fully described in the application in such proceeding, as supplemented.

(B) A certificate of public convenience and necessity is hereby issued authorizing applicant United to construct, acquire, and operate the facilities and proposed facilities which it seeks authorization to construct, acquire, and operate; and to sell, transport, and deliver natural gas as hereinbefore described; all as more fully described in the applications, as supplemented and amended, in Docket Nos. CP62-193 and CP65-118, as supplemented, upon the terms and conditions of this order.

(C) A certificate of public convenience and necessity is hereby issued authorizing applicant Lone Star to construct and operate the proposed facilities which it seeks authorization to construct and operate; and to transport and deliver natural gas as hereinbefore described; all as more fully described in the application in Docket No. CP65-118, as supplemented, upon the terms and conditions of this order.

(D) Permission for and approval of the abandonment by Gathering of the facilities heretofore constructed and now being operated by Gathering, and of the service rendered by it, pursuant to temporary certificates issued September 7, 1962, and February 6, 1963, in Docket No. CP62-179, all as hereinbefore described and as more fully described in the application in Docket No. CP62-179, are hereby granted subject to the agreement contained in Gathering's letter filed September 19, 1963, in Docket No. CP62-179, providing that Gathering will pass on to United any reduction in its weighted average cost of purchased gas which may result from the Commission's order accompanying Opinion No. 476 issued September 22, 1965, in *Sinclair Oil & Gas Co., et al.*, Docket No. G-16760, *et al.*, or other pertinent Commission action.

(E) The certificate issued by paragraph (B) above and the rights granted thereunder are conditioned upon United's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c) (3), (c) (4), (d) (2), (d) (3) and (e) of Section 157.20 of such Regulations.

(F) The certificate issued by paragraph (C) above and the rights granted thereunder are conditioned upon Lone Star's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c) (3), (c) (4) and (e) of Section 157.20 of such Regulations.

(G) Permission for and approval of the abandonment by United of the facilities hereinbefore described, all as more fully described in the application in Docket No. CP65-118, as supplemented, are hereby granted.

(H) United and Gathering shall advise the Commission of the date of abandonment of facilities authorized in paragraphs (D) and (G) above within ten days of such abandonment.

(I) The facilities hereby authorized shall be constructed and placed in actual operation, and the sales, transportation, and deliveries of natural gas authorized in paragraphs (B) and (C) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within six months from the date on which this order issues.

(J) The certificate issued by paragraph (B) above and the rights granted thereunder are conditioned to require that United flow through to its customers any refunds which it may receive from Gathering or from producers selling directly to United as provided for in the Commission's "Order Approving Rate Settlement and Requiring Retention of Certain Refunds," issued December 23, 1964, in *United Gas Pipe Line Co.*, Docket No. RP61-18, *et al.*, 32 FPC 1515.

(K) After Gathering has abandoned the facilities for which authorization is granted herein, Gathering shall file with the Commission a notice of cancellation of its service agreement with United and of its FPC Gas Tariff, Original Volume No. 1.

HOWELL PURDUE,
Presiding Examiner.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

PIPELINE PRODUCTION AREA RATE PROCEEDING, DOCKET NO. RP66-24

ORDER DELETING RESPONDENT

(Issued August 22, 1966)

Texas Gas Pipe Line Corporation (Texas Gas) on August 5, 1966, filed a motion requesting that it be deleted as a respondent in the above-designated proceeding.

In support of its motion, Texas Gas states, *inter alia*, that (1) it has no natural gas production at the present time and does not contemplate acquiring any production; (2) it currently owns and operates only 15 miles of 12-inch pipeline from which it makes a single jurisdictional sale to Transcontinental Gas Pipe Line Corporation; (3) it is seeking authorization to make one additional jurisdictional sale to Texas Eastern Transmission Corporation, which if granted would then increase Texas Gas' system to 50 miles of 10 and 12-inch pipeline; (4) currently it makes all of its gas purchases from unaffiliated independent producers; (5) if the authorization referred to above is granted it will purchase less than 1% of its total annual purchases from Union Texas Petroleum which is, as is Texas Gas, a subsidiary of Allied Chemical Corporation; and (6) it is doubtful that its continued participation in these proceedings, at considerable burden and expense, will contribute substantially toward the Commission's consideration and resolution of the issues involved.

On basis of the facts recited by Texas Gas and in view of the *de minimis* extent of Texas Gas' interstate pipeline operations, it appears that its continued participation as a respondent herein would not be of such a nature to contribute significantly to the record or to resolution of the issues involved in this proceeding. Accordingly, Texas Gas should be deleted as a respondent to this proceeding.

The Commission orders:

Texas Gas Pipe Line Corporation hereby is deleted from the list of Parties-Respondent specified in Appendix A to the order issued April 13, 1966, 35 FPC 497, in this proceeding.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

TRANSCONTINENTAL GAS PIPE LINE CORPORATION, DOCKET NO. CP63-228

ORDER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 22, 1966)

On July 19, 1966, Transcontinental Gas Pipe Line Corporation (Applicant) filed in Docket No. CP63-228 a letter request to amend the order issued July 3, 1963, 30 FPC 38, in said docket, which, among other things, required the Applicant to submit the actual cost of construction of its liquefied natural gas facility which was authorized by said order, within six months from the date of completion of such facility. Applicant requests extension of the time within which to make said report to April 30, 1967, all as more fully set forth in the letter request.

Applicant states that the facility was completed on January 10, 1966. The construction cost report is due as of July 10, 1966. It is requested that an extension of time until April 30, 1967, be granted within which to comply with the foregoing requirement.

By ordering paragraph (E) of the same order, Transco is precluded from transferring on its books from construction work in progress to gas plant in service the cost of the said LNG facility "Until the liquefied natural gas facility * * * has operated for one full injection and withdrawal cycle." It is estimated that this full cycle will not be completed until March 31, 1967. In the meantime, additional capital costs are being incurred as interest during construction, etc., and revenues which may be derived from the plant this coming winter will be credited to the cost of the project. As a result, total capital costs of the facility cannot be finally determined until the LNG facility is transferred to gas plant in service. Although the actual construction of the facility has been technically completed, a construction report at this time would reflect only an estimate of the total capital cost to be incurred prior to the completion of the full injection and withdrawal cycle. For this reason, an extension of time until April 30, 1967, is requested in order that a complete and meaningful report may be filed at that time.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's order issued in Docket No. CP63–228 on July 3, 1963, be amended as hereinafter ordered.

The Commission orders:

(A) The Commission's order issued July 3, 1963, in Docket No. CP63–228 is amended so as to extend the time in which to make the construction cost report from July 10, 1966, to April 30, 1967.

(B) In all other respects said order shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

TRUNKLINE GAS COMPANY, DOCKET NO. CP66–131

ORDER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 22, 1966)

On June 1, 1966, Trunkline Gas Company (Petitioner), filed in Docket No. CP66–131 a petition to amend the certificate of public convenience and necessity issued in said docket on February 11, 1966, 35 FPC 224, so as to authorize increases in the contract demands of eleven of its resale customers all as more fully set forth in the petition to amend.

Petitioner states that subsequent to the issuance of the order in the instant docket eleven of its existing resale customers requested increased contract demands commencing during 1966 so as to meet their requirements for the 1966–1967 heating season. Petitioner further states that such requests for increased contract quantities are as follows:

	Present authorization, Mcf	Proposed increase, Mcf	Proposed contract demand, Mcf
Flora, Ill.	3,800	200	4,000
Hickman, Ky.	1,600	1,300	2,900
Louisville, Ill.	630	320	950
McLeansboro, Ill.	2,350	250	2,600
Newbern, Tenn.	1,025	275	1,300
Troy, Tenn.	425	75	500
United Cities Gas Co.	3,800	200	4,000
Vienna, Ill.	1,000	300	1,300
Wickliffe, Ky.	644	156	800
Central Illinois Electric & Gas Co., Sidney, Ill.	1,200	550	1,750
St. Joseph, Ill.	675	175	850
Illinois Power Co., Ogden, Ill.	700	300	1,000
Total	17,849	4,101	21,950

Petitioner states that no additional facilities will be needed to provide such increased contract quantities and that no change in rates nor in the terms upon which service is rendered is proposed in conjunction with the requested amendment.

The total increase in contract demands for the eleven customers listed above will aggregate 4,101 Mcf. Upon completion of the facilities authorized by the Commission order of February 11, 1966, in this proceeding, Trunkline will have adequate capacity to provide these increased contract quantities.

Due notice of the filing of the petition to amend and opportunity for hearing thereon have been given by publication in the Federal Register on June 17, 1966 (31 F.R. 8508). No protest or petition to intervene has been filed in this proceeding concerning this amendment.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act, and the public convenience and necessity requires (1) that the Commission's order issued February 11, 1966, in Docket No. CP66-131 be amended as hereinafter ordered, and (2) executed superseding service agreements be filed with the Commission reflecting the proposed increases.

The Commission orders:

(A) The Commission's order, issued February 11, 1966, in Docket No. CP66-131 is amended by authorizing Petitioner to change maximum daily quantities to conform with volumes designated and set forth hereinabove, all as hereinbefore described and as set forth in the subject petition to amend.

(B) Superseding service agreements be filed with the Commission within 30 days after the issuance of this order.

(C) In all other respects said order shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

UNITED GAS PIPE LINE COMPANY, DOCKET NO. CP66-426

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 22, 1966)

On June 24, 1966, United Gas Pipe Line Company (Applicant) filed in Docket No. CP66-426 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and the transportation and delivery of natural gas to Henderson Clay Products, Inc. (Henderson) for use by the latter in its brick manufacturing plant, Rusk County, Texas, all as more fully set forth in the application in this proceeding.

Specifically, Applicant proposes to construct and operate approximately 0.95 mile of 4-inch pipeline from a point on its Henderson Lateral to the brick plant in Rusk County. Applicant will also construct related metering and regulating facilities and other appurtenant facilities. The application indicates that Henderson's third year maximum day and annual requirements from Applicant are 2,000 Mcf and 600,000 Mcf, respectively. Henderson will utilize natural gas in the operation of its brick kilns.

Applicant and Henderson have entered into a contract, dated May 25, 1966, providing for the proposed sale. Henderson has agreed to a "take-or-pay" quantity of 1,500 Mcf per day. The average rate for the estimated 600,000 Mcf of annual delivery is estimated to be 23.22 cents per Mcf.

Total estimated cost of the proposed facilities is $27,176, which cost will be financed out of current working funds.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on August 18, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, United Gas Pipe Line Company, a Delaware corporation having its principal place of business in Shreveport, Louisiana, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of January 20, 1942, in Docket No. G–216 (3 FPC 3).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are to be used in the transportation and delivery of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof and the proposed transportation and delivery of natural gas by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities and the proposed transportation and delivery of natural gas by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Applicant, United Gas Pipe Line Company, to construct and operate the proposed facilities and to transport and deliver natural gas as hereinbefore described, all as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be constructed and placed in actual operation and the transportation and delivery of natural gas authorized in paragraph (A) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within six months from the date on which this order issues.

(D) This certificate shall not entitle the industrial customer to whom firm deliveries are authorized herein to any priorities to additional gas for meeting any future increases in its requirements at the expense of firm resale customers desiring to acquire additional gas to meet any future increases in their requirements.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

COLUMBIA GULF TRANSMISSION COMPANY, DOCKET NO. CP65-102; ATLANTIC SEABOARD CORPORATION, DOCKET NO. CP65-122; TRANSCONTINENTAL GAS PIPE LINE CORPORATION, DOCKET NO. CP65-181; TRANSCONTINENTAL GAS PIPE LINE CORPORATION, UNITED NATURAL GAS COMPANY, AND NORTH PENN GAS COMPANY, DOCKET NO. CP65-182; UNITED FUEL GAS COMPANY, DOCKET NO. CP65-198

ORDER DENYING MOTIONS FOR CLARIFICATION AND OMISSION OF INTERMEDIATE DECISION PROCEDURE

(Issued August 23, 1966)

On June 13, 1966,* the presiding examiner's initial decision was issued upon certain applications for certificates of public convenience and necessity in this proceeding. By this decision the construction and operation of certain facilities and the transportation and sale of natural gas in interstate commerce pursuant to certain applications were specifically authorized. The examiner provided, however, that certain other issues should be resolved in a separate subsequent decision. The examiner further provided[1] that the time for filing exceptions to the initial decision of June 13, 1966, would run from the date of issuance of the examiner's subsequent decision disposing of the reserved issues.

Notwithstanding the apparent extension of time for filing exceptions, Consolidated Edison Company of New York, Inc. (Con Ed) on June 15, 1966, filed exceptions to the initial decision of June 13, 1966, and moved for clarification of the Commission's order of April 29, 1966, 35 FPC 642 (amended May 13, 1966), for postponement of the date of hearing fixed in that order, and for omission of the intermediate decision procedure. No other exceptions have been filed.

We are concerned here with only one phase of this consolidated proceeding which involved 5 applications for pipeline expansion programs and the development of a storage field in Pennsylvania. Among the matters on which decision was reserved was a proposed sale by Transcontinental Gas Pipe Line Corporation (Transco) of gas to be used by Con Ed as boiler fuel in New York City. The order of April 29 provided in part for severance of this matter and for a hearing. We allowed intervention to the United States Department of Health, Education, and Welfare (HEW) so that it might present evidence with respect to the possible effect of this proposal, and its variations, on air pollution in the City of New York.

The initial decision of June 13 did not purport to determine any of the questions involved in this connection. It contained some 15 pages in which the examiner indicated various questions which he thought should be dealt with by the participants in the later hearing. The exceptions of Con Ed are directed solely to these 15 pages in the initial decision. Con Ed does not object to anything contained in the ordering paragraphs accompanying the initial decision of June 13, but it asks the Commission "to eliminate from its consideration in any final decision it may render based upon this initial decision, all of the conclusions and material contained in mimeo. pages 21–35 thereof."**

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*Editor's note: Decision printed at 37 FPC 137.

[1] Ordering Paragraph (H).

Con Ed also contends that the questions raised by the examiner at said mimeo. pages 21–35 **would broaden the scope of the future hearing beyond that contemplated in the Commission order of April 29, and asks that that order be clarified and that the Commission "reaffirm the clear and unambiguous direction in its order of April 29, that the sole issue upon which evidence is to be presented * * * is the issue of the most productive use of the * * * gas to alleviate air pollution in New York City." Alternatively, if the Commission concludes the hearing is to be concerned with other issues as well, Con Ed requests the date for filing and serving testimony be postponed until September to permit preparation of a case on the additional issues.

Lastly, Con Ed contends that the presiding examiner has revealed by his language at mimeo, pages 21–35 of the initial decision** that he has so prejudged the issues that the intermediate procedure should be omitted and the determination of these issues should be made in the first instance by the Commission.

The Commission staff in its answer to Con Ed's exceptions argues that the intermediate decision procedure will be of assistance to the Commission in reaching its ultimate decision. Staff further contends that the examiner has revealed no bias or prejudgment which would render it improper for him to continue in this case, and that if he had, Con Ed's proper remedy would be to ask for another examiner rather than for the omission of the intermediate decision procedure. It is also staff's position that the examiner has not extended the scope of the future hearing beyond that set forth in the Commission order of April 29, and that the questions raised by the examiner should be the subject of evidence and argument by the various participants so that the Commission may have a complete record to assist it in its ultimate decision.

The Exceptions to the Language of the Initial Decision

Con Ed asks us to disregard the language of mimeo. pages 21–35 of the initial decision.** This language was directed to issues not yet decided by the examiner. It is dicta only. It does not contain a determination and is not implemented by any of the ordering paragraphs. In these circumstances there is no determination upon which the Commission should now act. When the initial decision is made upon these matters Con Ed may file exceptions thereto, if it wishes to do so, and at that time the Commission will determine whether the order to be proposed by the presiding examiner should be upheld.

The Scope of the Future Hearing

It was not the intention of the Commission in its order of April 29 to limit the scope of the future hearing so as to preclude the development of a full and complete record. The proper scope of the proceeding should be left to the examiner in the first instance, and will usually be reviewed by the Commission only upon consideration of the entire case. Accordingly, the request of Con Ed that the Commission declare that the sole issue upon which evidence is to be presented is the issue of the most productive use of gas to alleviate air pollution is denied.

The Extension of Time to File and Serve Evidence

By order of June 24, 1966, the Commission extended the time for all parties to file and service evidence to September 20, 1966. This relief requested by Con Ed having already been granted, there is no further action necessary here.

**Printed at 37 FPC 146–154.

The Motion to Omit the Intermediate Decision Procedure

We agree with the staff that the intermediate decision procedure should not be omitted in a complex and contested case of this nature, where no impelling need for speed has been shown. Although Con Ed has not requested the institution of another examiner, we have carefully considered the language of the initial decision of which Con Ed complains to determine whether any bias has been revealed which would render it improper for the present examiner to continue to preside over this proceeding.

We note at the outset that the remarks of the examiner were stated by him to be in lieu of a prehearing conference or other notice to parties. The examiner chose this method of putting his views before the participants because of the shortness of time, which apparently ruled out a prehearing conference or other preliminary procedure to define the issues. There is no suggestion on the part of Con Ed that the examiner is personally biased for or against any party to the proceeding. Con Ed does contend that the dicta of the examiner with respect to the air pollution issues reveal that he has already formed opinions contrary to the position of Con Ed and for this reason should be replaced.

In the administration of justice by courts or administrative agencies it is of the first importance that the parties should receive a full and fair hearing and that those concerned with the adjudication of issues should maintain a judicial attitude and an open mind with respect to all reasonable contentions which are not foreclosed by prior ruling or established precedent. If we found in the examiner's language any indication that he could not afford the parties full and fair hearing we would not hesitate to replace him. We think that the statements made by him, although not of the type usually included in an initial decision, do not go beyond the permissible range of comment by judges or examiners in pre-trial or prehearing proceedings. We agree with the staff that the examiner's language indicates that he expects to consider the evidence and arguments upon the various points which he has set forth, as well as others which the participants may bring to his attention, and that his decision will be made on the basis of the evidence presented and not upon the basis of a preconceived opinion.

Con Ed's motion to omit the intermediate decision proceeding is denied.

The Extension of Time for Filing Exceptions

Ordering Paragraph (H) of the initial decision of June 13, 1966, extended the time for filing exceptions to that initial decision until 30 days after the issuance "of the examiner's subsequent decision disposing of the competitive issue." The Commission hereby confirms the examiner's order in this respect.

The Commission finds:

It does not appear to be in the public interest to grant the motion of Consolidated Edison Company of New York, Inc., to omit the intermediate decision procedure.

The Commission orders:

(A) The motions of Consolidated Edison Company of New York, Inc., for clarification of Commission order and for omission of intermediate decision procedure are denied.

(B) The time for filing exceptions to the examiner's initial decision of June 13, 1966, in this proceeding shall begin to run from the date of issuance of the examiner's subsequent decision disposing of the competitive issue.

[Ed. Note. Examiner's decisions issued June 13, 1966, and subsequent one issued September 28, 1966, are printed with Commission's Opinion No. 512, issued January 24, 1967, 37 FPC 118 at 137 and 161.]

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

PACIFIC GAS AND ELECTRIC COMPANY, PROJECT NO. 619

ORDER PERMITTING WITHDRAWAL OF APPLICATION FOR AMENDMENT OF LICENSE (MAJOR)

(Issued August 23, 1966)

On June 27, 1966, Pacific Gas and Electric Company, licensee for major Project No. 619, filed notice of withdrawal of an application for amendment to extend the term of the license for the constructed Bucks Creek Project No. 619 located on Bucks Creek and other streams, in Plumas County, California, and affecting lands of the United States within the Plumas National Forest.

The application for amendment, filed August 20, 1965, sought an 8-year extension of the license period to the full 50-year period from its effective date and ending April 13, 1976. The original license for the project was issued on April 14, 1926 for a period ending December 31, 1968. The project was constructed between the issuance date of the license and October, 1928.

In its notice of withdrawal, the licensee states, among other things, that it intends to apply to the Commission for a new license for the project, pursuant to Section 2.6(d) of the Commission's Rules and Regulations.

The Commission finds:

It is consistent with the provisions of the Federal Power Act and the Commission's rules and regulations thereunder to permit withdrawal of the application for extension of the term of the license for Project No. 619.

The Commission orders:

Pacific Gas and Electric Company is hereby permitted to withdraw its application for an extension of the term of its license for Project No. 619, and the proceeding initiated by the filing of the application is terminated.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

SOUTHERN NATURAL GAS COMPANY, DOCKET NO. CP66-413

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, TERMINATING CERTIFICATE, CANCELING RATE SCHEDULE AND ACCEPTING RATE FILING

(Issued August 23, 1966)

On June 13, 1966, Southern Natural Gas Company (Applicant) filed in Docket No. CP66-413 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to Trunkline Gas Company (Trunkline) from acreage in the Lou Ella Field, Jim Wells, Sam Patricio and Live Oak Counties, Texas, pursuant to a gas purchase contract, dated March 22, 1955, between Trunkline and A. W. Gregg (Gregg), all as more fully set forth in the application in this proceeding.

Applicant states that it has acquired its interest in the acreage covered by the contract of March 22, 1955, through an assignment by Gregg to Lower Nueces River Water Supply District (District), dated April 14, 1958, and a subsequent assignment by District to Applicant, dated March 21, 1966.

The application shows that all gas to be sold under the requested authorization will be delivered to Trunkline at the existing delivery point in the field, as specified under the contract of March 22, 1955. Applicant does not propose to construct any new facilities with respect to the subject proposal.

The Commission in Docket Nos. G–8993 and G–15135 has previously authorized Gregg and District, respectively, to sell natural gas to Trunkline under the Contract of March 22, 1955.

Concurrently with the filing of the subject application, Applicant tendered for filing its Revised Sheet No. 1 and Original Sheet Nos. 121 through 145 to its FPC Gas Tariff, Original Volume No. 3, covering the proposed sale to Trunkline.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on August 18, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Southern Natural Gas Company, a Delaware corporation having its principal place of business in Birmingham, Alabama, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of October 6, 1942, in Docket No. G–296 (3 FPC 822).

(2) The sale of natural gas hereinbefore described, as more fully described in the application in this proceeding, will be made in interstate commerce, subject to the jurisdiction of the Commission, and such sale by Applicant is subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The proposed sale of natural gas by Applicant is required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(3) and (e) of Section 157.20 of such Regulations.

(6) Applicant's proposed Revised Sheet No. 1 and Original Sheet Nos. 121 through 145 to its FPC Gas Tariff, Original Volume No. 3 should be accepted for filing to become effective on the date this order issues.

(7) The certificate of public convenience and necessity issued to District in Docket No. G–15135 should be terminated and District's related FPC Gas Rate Schedule No. 1 should be canceled.

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Applicant, Southern Natural Gas Company, to sell natural gas as hereinbefore described, all as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(3) and (e) of Section 157.20 of such Regulations.

(C) The sale of natural gas authorized in paragraph (A) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within 3 months from the date on which this order issues.

(D) Applicant's proposed Revised Sheet No. 1 and Original Sheet Nos. 121 through 145 to its FPC Gas Tariff, Original Volume No. 3 are accepted for filing to become effective on the date this order issues.

(E) The certificate of public convenience and necessity issued to District in Docket No. G-15135 is terminated and District's related FPC Gas Rate Schedule No. 1 is canceled.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and David S. Black.

W. E. BAKKE OIL COMPANY (OPERATOR), ET AL., DOCKET NO. RI64-574

ORDER GRANTING REQUEST TO SUBSTITUTE FROZEN SAVINGS ACCOUNT IN LIEU OF SURETY BOND TO ASSURE REFUND OF EXCESS CHARGES AND TERMINATING LIABILITY UNDER BOND

(Issued August 23, 1966)

On July 6, 1966, W. E. Bakke Oil Company (Operator), *et al.*, (Bakke) filed a letter requesting that it be permitted to substitute a frozen savings account in the amount of not less than $46,400.00, in lieu of continuing a surety bond in said amount, to assure refund of excess charges in Docket No. RI64-574. The proceeding in Docket No. RI64-574 relates to a rate increase, from 10.7195¢ to 14.5¢ per Mcf, filed by Bakke on January 13, 1964, and designated Supplement No. 6 to Bakke's FPC Gas Rate Schedule No. 1, for sales of natural gas to Cities Service Gas Company from the Hugoton Field, Haskell, Morton, Kearney, Finney and Stanton Counties, Kansas. The estimated amount of annual increase under the proposed increased rate is approximately $46,400.00. By the Commission's order issued January 24, 1964, in said docket, the proposed increased rate was suspended until July 13, 1964. Subsequently, the suspended rate was permitted to become effective subject to refund under a surety bond in the amount of $46,400.00 filed by Bakke on January 27, 1965.

The unusual aspect underlying Bakke's request is that in obtaining a surety bond in this proceeding it was required by the bonding company to place the increased portion of the rate in a savings account until the total amount of the bond was accumulated.[1] Consequently, Bakke now has over $46,400.00 committed to a frozen savings account in the Southern Natural Bank of Houston, Texas, and, in addition, is required to pay the annual premium on the bond. Bakke pledges to maintain the frozen savings account in an amount of not less than $46,400.00 pending final Commission action on the increased rate if the surety bond is discharged.

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[1] There was no indication in the surety bond filed by Bakke that it was required by the surety also to maintain a frozen escrow account. This condition did not come to light until Bakke made the subject request.

We conclude from the facts presented here that Bakke's request to substitute the frozen savings account in lieu of the surety bond should be granted. The refund protection will in no way be diminished by such action, and Bakke will be relieved of the payment of premiums which afford no additional refund assurance. No changes, however, in existing refund assurances will be permitted in other cases if the effect is to lessen such refund assurance. We also desire to preclude arrangements such as the one involved here and will therefore require natural gas companies in the future when filing a surety bond to accompany such bond with a certificate stating that no obligation in connection therewith has been assumed except payment of the bond premium.

The Commission orders:

(A) For the reasons set forth above, Bakke is permitted to substitute a savings account in lieu of the surety bond filed herein on January 27, 1965, to assure refund of any excess charges determined in Docket No. RI64–574.

(B) Bakke is authorized to terminate the surety bond filed on January 27, 1965, in Docket No. RI64–574 as of the date of the issuance of this order.

(C) Bakke shall comply with the refunding and reporting procedure required by the Natural Gas Act and Section 154.102 of the Regulations thereunder. Bakke's savings account shall be maintained in an amount of not less than $46,400.00 until Bakke is discharged by the Commission from its refunding obligation in Docket No. RI64–574.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., David S. Black and Charles R. Ross.

DEPARTMENT OF WATER RESOURCES OF THE STATE OF CALIFORNIA, PROJECT NO. 2100

ORDER APPROVING REVISED PROJECT EXHIBIT L DRAWINGS

(Issued August 24, 1966)

On June 9, 1964, and June 13, 1966, the Department of Water Resources of the State of California, licensee for Project No. 2100, filed application for Commission approval of revised Exhibit L drawings showing proposed changes and modifications in the project, located on the Feather River, in the State of California.

The proposed changes and modifications shown on the revised drawings, which are the results of continued engineering studies and license requirements, are as follows: *Oroville Dam:* (1) substitution of 1,730 feet of ungated spillway for a gated spillway containing four 95-foot wide by 34-foot high automatically operated radial gates; (2) substitution of seven 20-foot wide by 33-foot high submerged flood control outlets with center at El. 830 feet for seven 26.67-foot wide by 26-foot high submerged flood control outlets with center at El. 834.5 feet; (3) raising of the top of Oroville dam and rim dikes from El. 915 feet to El. 922 feet required by the change in spillway design and to accommodate the handling of the design flood; (4) changing the intake to the

Oroville plant to provide for drawing water from the reservoir at various elevations for temperature regulation; and *Thermalito Diversion Dam:* changing the Thermalito dam by substituting fourteen 40-foot wide by 23-foot high radial gates with sill at El. 205 feet for seven 90-foot wide by 21-foot high radial gates with sill at El. 205 feet, and changing the top of the dam from concrete at El. 251 feet to fill at El. 246 feet, surmounted by a concrete wave wall with crest at El. 250 feet and providing a fuseplug spillway on the canal adjacent to the Thermalito intake structure.

With respect to the Oroville dam, the design of the Oroville spillway was changed as a result of hydraulic model studies which indicated that the original design could be improved. The use of an ungated spillway adds to the reliability of the dam, but causes a higher reservoir water surcharge when passing the project design flood. To accommodate this higher surcharge the top of the Oroville dam and rim dikes have been raised by seven feet. The flood control outlets have been modified in dimensions but have retained their water carrying capacity of about 280,000 cfs for reservoir water surface at elevation 900 feet. Hence, for flood somewhat in excess of the maximum flood of record (about 245,000 cfs) these outlets could prevent any water surcharge above the maximum normal water surface elevation of 900 feet from occurring, thus eliminating the need of gates at the Oroville spillway which would normally be used for controlling the water surface elevation. The intake to the penstocks of the Oroville power plant was to have been a low level gated structure with trashracks placed at about 300 feet below normal water surface elevation of 900 feet with two gates which could be hoisted up a slope for maintenance purposes. The newly proposed intake to the penstocks would be a similar structure but would be provided with trashracks and shutters for controlling the level from which water could be selectively drawn from the reservoir from elevation 613 to 900 feet for discharge water temperature control pursuant to Article 48 of the license.

The Department of the Interior has advised that the proposed design of the penstock intake structures at the Oroville power plant is adequate and would permit the selection of impounded water of suitable temperature for the downstream fishery resources, and the California Department of Fish and Game has advised that it finds that the intake structure will operate in a manner to satisfy the needs of the downstream fisheries.

With respect to the Thermalito Diversion Dam, the dam has been modified by changing the axis of the dam at the Thermalito canal intake, by providing bucket type energy dissipators at the toe of the spillway ogee, changing the radial gates by decreasing their width but increasing their number, all to improve the hydraulic operation of the spillway as found through model studies. A bridge across the spillway has been added and the low discharge outlet has been moved to the left abutment. The Thermalito spillway, together with the fuseplug spillway on the canal and with the concrete wave wall on the right abutment, are considered satisfactory for the passage of the Oroville dam discharge resulting from the possible maximum flood.

The aforementioned changes and modifications are improvements which result in a reduction in project costs, except for the Oroville power plant intake structure the cost estimate of which was increased from about $5 million to $12 million in order to provide means for releasing water from the reservoir at various levels for temperature control in the interest of fish preservation.

The Office of the Chief of Engineers has approved the plans of the project structures affecting navigation in accordance with Section 4(e) of the Federal Power Act insofar as the interests of navigation are concerned.

The Commission finds:

(1) The following described revised Exhibit L drawings conform to the Commission's rules and regulations and should be approved as part of the license for the project; subject to the following condition with respect to Exhibit L–1–b (FPC No. 2100–88):

Exhibit	FPC No.	Title: State Water Facilities, Oroville Division
L–1–b.......	2100–88	Oroville Dam: *Provided*, that if tests during construction prove that the fill material for the dam does not meet the design requirements assumed in Exhibit L–18–b, entitled "Oroville Dam—Design Data," [1] which is a part of the application for amendment of license filed April 17, 1962, then, subject to the requirement of Article 2 of the license, the slopes of the dam as shown in Exhibit L–1–b (FPC No. 2100–88) shall be modified to provide essentially the same factors of safety as now provided in Exhibit L–18–b.
L–4–b.......	2100–89	Oroville Power Plant, Penstocks and Intake.
L–10–b......	2100–90	Oroville Spillway.
L–11–b......	2100–91	Thermalito Diversion Dam.
L–15–b......	2100–92	Auxiliary Dams and Sections.

[1] Not required to be approved by the Commission.

(2) The following described license Exhibit L drawings which have been superseded should be eliminated from the license for the project:

Exhibits L–1–b, L–4–b, L–10–b, L–11–b, and L–15–b (FPC Nos. 2100–69, 72, 78, 79, and 83 respectively).

The Commission orders:

The revised Exhibit L drawings described in finding (1) above are hereby approved as part of the license for Project No. 2100, subject to the condition with respect to Exhibit L–1–b (FPC No. 2100–88), and the license Exhibit L drawings described in finding (2) above as being superseded are hereby eliminated from the license for the project.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

GARDNER GAS, FUEL AND LIGHT COMPANY AND GARDNER PIPELINE, INC., DOCKET NO. CP66–245; TENNESSEE GAS PIPELINE COMPANY, A DIVISION OF TENNECO INC., DOCKET NOS. CP65–120, CP65–352; FITCHBURG GAS AND ELECTRIC LIGHT COMPANY, DOCKET NO. CP66–380

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, AMENDING ORDERS ISSUING CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY, ACCEPTING TARIFF FOR FILING AND ISSUING DECLARATION OF EXEMPTION

(Issued August 25, 1966)

The amended application in these proceedings filed by Gardner Gas, Fuel and Light Company[1] and Gardner Pipeline, Inc.[2] (hereinafter sometimes collectively referred to as Applicant) on May 4, 1966, as further amended on May 16, 1966, seeks a certificate of public convenience and necessity pursuant to Section 7 of the Natural Gas Act (Act) authorizing Gardner Pipeline to construct and operate in the State of Massachusetts approximately 8.3 miles of 6-inch pipeline and to transport natural gas for the account of Gardner Gas for consumption in Gardner, Massachusetts. Gardner Gas will purchase gas from Fitchburg Gas and Electric Company.[3]

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[1] Sometimes referred to as Gardner Gas.

[2] Sometimes referred to as Gardner Pipeline.

Fitchburg Gas and Electric Light Company (Fitchburg), a gas distribution company operating in and around Fitchburg, Massachusetts, on May 19, 1966, filed an application for exemption of its facilities and proposed service to Gardner Gas from the provisions of the Act pursuant to Section 1(c) thereof.

Tennessee Gas Pipeline Company (TGP) filed on June 27, 1966, a petition seeking amendment of the Commission's orders issued March 30, 1965, 33 FPC 657, and July 26, 1965, 34 FPC 115, in Docket Nos. CP65–120 and CP65–352, respectively, so as to provide that part of the gas sold by Fitchburg could be resold to Gardner Gas, Fuel and Light Company for consumption in Gardner, Massachusetts.

The orders issued March 30, 1965, in Docket No. CP65–120 and on July 26, 1965, in Docket No. CP65–352, authorized TGP to sell and deliver up to a peak day maximum of 7226 Mcf to Fitchburg for resale in and about the area of Fitchburg, Massachusetts. TGP by the petition to amend filed on June 17, 1966, seeks to have the amended authorizations heretofore granted so that approximately 1,100 Mcf of the gas sold to Fitchburg may be resold to Gardner Gas for resale in Gardner, Massachusetts.

The total estimated peak day requirements of Gardner Gas are stated to be:

	Mcf
1966	550
1967	850
1968	950
1969	1, 100
1970	1, 300

The total estimated cost of Gardner Pipeline's proposed construction is $285,500, which will be financed by sale of common stock and first mortgage bonds.

Gardner Gas presently engages in the distribution of propane-air gas in Gardner, Massachusetts. It is expected that the introduction of natural gas will enable the Company to reduce rates to consumers and halt the decline in number of customers. Gardner Gas proposes to resell natural gas at a rate averaging $1.98 per Mcf. This rate contrasts with the Company's average rate of $2.84 per Mcf for propane-air gas.

Gardner Gas will pay Fitchburg at a rate of 82 cents per Mcf for the first 6,250 delivered during the month and 65 cents per Mcf for all gas in excess of that amount. Fitchburg's rates are subject to the jurisdiction of the Massachusetts Department of Public Utilities.

The Massachusetts Department of Public Utilities has no objection to the sale of gas by Fitchburg or the transportation thereof by Gardner Pipeline, Inc.

Concurrently with the filing of the amended application on May 4, 1966, Gardner Pipeline filed Rate Schedule T–1 of FPC Gas Tariff, Original Volume No. 1, reflecting the proposed transportation service of natural gas from Fitchburg to Gardner on a cost of service basis, and requested an effective date therefor of June 1, 1966. The appropriate effective date will be the date of initiation of service and Gardner Pipeline's Rate Schedule will be permitted to become effective as of that date.

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[3] The joint application originally filed by Applicant on February 1, 1966, sought an order of the Commission pursuant to Section 7 of the Act directing Tennessee Gas Pipeline Company (TGP) to supply natural gas to Gardner Gas. The gas was to be transported by Gardner Pipeline from the point of connection with Tennessee Gas Pipeline Company to Gardner, Massachusetts.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on August 25, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and exhibits, submitted in support of the authorizations, and upon consideration of the record,

The Commission finds:

(1) Gardner Pipeline, Inc., a Massachusetts corporation having its principal place of business in Gardner, Massachusetts, will be a "natural-gas company" within the meaning of the Natural Gas Act, upon the commencement of operations.

(2) The proposed construction and operation of facilities and the transportation of natural gas by Gardner Pipeline, Inc., as hereinbefore described and as more fully described in the applications and exhibits in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The proposed construction and operation of facilities and transportation of natural gas are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Gardner Pipeline, Inc. is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that Gardner Pipeline's Rate Schedule T-1 of its FPC Gas Tariff, Original Volume No. 1 be accepted for filing effective upon the initiation of service to Gardner.

(7) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's order issued March 30, 1965, in Docket No. CP65-120, and the Commission's order issued July 26, 1965, in Docket No. CP65-352, be amended as hereinafter ordered.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Gardner Pipeline, Inc. authorizing the construction and operation of facilities, and the transportation of natural gas as more fully described in the application in this proceeding, subject to the jurisdiction of the Commission, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder is conditioned upon Gardner Pipeline's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be completed and placed in actual operation and the transportation of natural gas authorized in paragraph (A) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, by January 1, 1967.

(D) Gardner Pipeline's proposed Rate Schedule T-1 of its FPC Gas Tariff Original Volume No. 1 is accepted for filing effective on the date of initiation of service.

(E) By reason of the foregoing the facilities of Fitchburg Gas and Electric Light Company and the service to be rendered thereby to Gardner Gas, Fuel and Light Company are exempt from the provisions of the Natural Gas Act, and the orders, rules and regulations of the Commission issued thereunder.

(F) The Commission's order issued March 30, 1965, in Docket No. CP65–120, and the Commission's order issued July 26, 1965, in Docket No. CP65–352 are amended so as to provide that a part of the gas sold by Tennessee Gas Pipeline Company (natural gas in Docket No. CP65–120 and liquefied natural gas in Docket No. CP65–352) may be resold by Fitchburg to Gardner Gas, Fuel and Light Company for resale in Gardner, Massachusetts.

(G) Tennessee Gas Pipeline Company shall file within 30 days after the issuance of this order a revised service agreement with Fitchburg Gas and Electric Light Company covering the G–6 deliveries provided for in paragraph (F) above.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

AREA RATE PROCEEDING, ET AL. (PERMIAN BASIN AREA), DOCKET NO. AR61–1, ET AL.

ORDER ACCEPTING QUALITY STATEMENTS

(Issued August 26, 1966)

The producers listed in the Appendices have submitted revised quality statements reflecting the quality of gas under rate schedules pertaining to sales of gas in the Permian Basin Area as required or permitted by Commission orders issued June 13 and June 27, 1966, 35 FPC 960, 1083, in the above-entitled proceedings. The producers and their pipeline purchasers have also agreed to the price adjustments set forth in such revised quality statements for the sale of less than pipeline quality gas.

The quality statements listed in Appendices A and B, which relate to sales to El Paso Natural Gas Company (El Paso) and West Texas Gathering Company (West Texas), respectively, have been revised to eliminate proposed upward adjustments for gas delivered at pressures in excess of 500 psig or for Btu content between 1,000 and 1,050. These upward adjustments were rejected in our order issued June 13.

The revised quality statement submitted by Mobil Oil Company (Mobil) for sales to West Texas is also included in Appendix B. Such quality statement reflects the necessary price adjustment for the quality deficiencies in gas sold by Mobil to West Texas. The original quality statement was rejected in our order issued June 27 because it did not reflect any downward price adjustment for quality deficiencies. Mobil had contended erroneously that the buyer should bear the treating cost.

The quality statements in Appendix C relate to sales to Northern Natural Gas Company (Northern). The price adjustments contained therein reflect the use of a 100% capacity factor by Northern in computing its treating, dehydration and compression costs as authorized in our June 13 order.

The quality statements listed in the Appendices conform with the requirements set forth in our June 13 and June 27 orders. We shall therefore accept them.

The Commission orders:

The quality statements listed in Appendices A, B and C are accepted.

APPENDIX A

SALES TO EL PASO NATURAL GAS CO.

Producer	Rate schedule No.	Supplement numbers	
		From—	To—
Amerada Petroleum Corp.	1	1	27
	31	1	12
	55	1	9
	56	1	14
	**57	1	11
	101	1	4
	125	1	1
Atlantic Richfield Co.	11	1	9
	15	1	11
	17	1	10
	18	1	12
	19	1	10
	20	1	20
	29	1	13
	139	1	8
	140	1	10
	243	1	11
	289	1	2
Aztec Oil & Gas Co.	6	1	11
Perry R. Bass	**1	1	3
F. A. Callery, Inc.	***8	1	9
Cities Service Oil Co.	18	1	17
	**19	1	11
	20	1	9
	21	1	10
	22	1	8
	23	1	8
	24	1	10
	26	1	6
	27	1	7
	28	1	6
	**51	1	17
	52	1	9
	*105	1	9
	135	1	7
	177	1	15
	195	1	2
	**199	1	11
	204	1	2
Continental Oil Co.	**85	1	25
	**92	1	15
	**104	1	15
	**109	1	13
	**145	1	8
	163	1	7
	181	1	6
	*190	1	4
	**214	1	15
	261	1	5
	276	1	6
General American Oil Co. of Texas	32	1	7
Gulf Oil Corp.	8	1	9
	9	1	7
	12	1	10
	16	1	17
	56	1	5
	118	1	9
Gulf Oil Corp.—Con.	144	1	4
	146	1	5
	240	1	3
	244	1	2
Humble Oil & Refining Co.	8	(1)	(1)
	9	1	12
	28	1	13
	31	1	16
	33	1	10
	45	1	11
	116	1	14
	**138	1	4
	159	1	4
	160	1	6
	259	1	6
	260	1	10
	306	1	5
	**330	1	5
	344	1	3
Hunt Industries	5	1	3
Hunt Oil Co.	48	1	5
	61	1	3
Caroline Hunt Trust Estate	2	1	4
H. L. Hunt	6	1	10
	21	1	4
Marathon Oil Co.	6	1	7
	27	1	7
A. H. Meadows	1	1	5
Midwest Oil Corp.	**12	1	3
Mobil Oil Corp.	86	1	10
	90	1	9
	92	1	9
	101	1	13
	208	1	9
	**209	1	6
	210	1	6
	211	1	11
	**241	1	14
Northern Natural Gas Producing Co.	22	1	3
Odessa Natural Gasoline Co.	6	1	1
Pan American Petroleum Corp.	20	1	15
	*21	1	13
	***68	1	10
	101	1	9
	110	1	25
	**136	1	22
	191	1	8
	218	1	6
	234	1	7
	249	1	8
	271	1	8
	317	1	7
	*348	1	12
	402	1	

See footnotes at end of table.

APPENDIX A

Sales to El Paso Natural Gas Co.—Continued

Producer	Rate schedule No.	Supplement numbers	
		From—	To—
Phillips Petroleum Co.	*7	1	11
	10	1	17
	**32	1	27
	**33	1	14
	40	(1)	(1)
	*64	1	14
	**65	1	14
	*243	1	17
	260	1	6
	**274	1	6
	358	1	6
	*363	1	14
	397	1	3
Joseph E. Seagram & Sons, Inc., d/b/a Texas Pacific Oil Co.	11	1	14
	13	1	17
	**28	1	11
	38	1	8
	**40	1	16
	41	1	9
	**42	1	19
	**43	1	10
	**44	1	12
	56	1	12
	57	1	11
	**58	1	27
	59	1	12
	82	1	1
Shell Oil Co.	15	(1)	(1)
	17	1	17
	18	1	13
	*19	1	16
	134	1	15
	249	1	7
	273	1	5
	305	1	5
Sinclair Oil & Gas Co.	8	1	23
	13	1	6
	65	1	12
	71	1	8
	83	1	8
	92	1	8
	*168	1	5
	170	1	7
	174	1	8
	215	1	5
	221	1	3
	*222	1	7
	223	1	3
	**261	1	3
	**265	1	13
	**265	1	14
	286	1	11
	307	1	3
Skelly Oil Co.	*31	1	5
	45	1	6
	58	1	7
	60	1	9
	69	1	8
	72	1	8
	**78	1	17
	108	1	6
Skelly Oil Co.—Con.	167	1	2
Sohio Petroleum Co.	**64	1	11
	**97	1	8
Southern Union Production Co.	4	(1)	(1)
Standard Oil Co. of Texas, a division of Chevron Oil Co.	9	1	9
	17	1	11
	18	1	11
	**19	1	17
	32	1	4
Sun Oil Co.	1	1	12
	30	1	14
	58	1	19
	61	1	13
	65	1	10
	150	1	5
	151	1	6
	176	1	2
Sunray DX Oil Co.	62	1	12
	64	1	11
	93	1	9
	142	1	8
The Superior Oil Co.	8	1	11
	10	1	13
Tenneco Oil Co.	46	1	4
	**138	1	10
	146	1	5
	160	1	6
Texaco Inc.	19	1	11
	21	1	15
	23	1	13
	25	1	13
	28	1	8
	29	1	8
	30	1	10
	168	1	13
	169	1	9
	254	1	4
	292	1	5
	350	1	1
Tidewater Oil Co.	4	1	11
	**38	1	15
	39	1	16
	**43	1	21
Union Oil Co. of California	97	1	2
	100	1	12
	109	1	7
	128	1	8
	129	1	7
	**131	1	5
Union Texas Petroleum, a division of Allied Chemical Corp.	***22	1	10
	***38	1	7
	***39	1	9
	48	1	4
	**49	1	13
	***74	1	1
Warren Petroleum Corp.	*28	1	8

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*Operator.

**Operator, *et al.*

****Et al.*

[1] Rate schedule canceled. Quality statement made an exhibit to the rate schedule.

APPENDIX B

SALES TO WEST TEXAS GATHERING CO.

Producer	Rate schedule No.	Supplement numbers		Producer	Rate schedule No.	Supplement numbers	
		From—	To—			From—	To—
Amerada Petroleum Corp.	67	1	4	Pan American Petroleum Corp.	**220	1	4
Atlantic Richfield Co.	229	1	3				
	262	1	3				
Champlin Petroleum Co.	78	1	4	Joseph E. Seagram & Sons, Inc., d/b/a Texas Pacific Oil Co.	*19	1	11
Cities Service Oil Co.	124	1	9	Shell Oil Co.	168	1	6
Continental Oil Co.	*160	1	4	Skelly Oil Co.	159	1	3
Gulf Oil Corp.	138	1	4	Sun Oil Co.	178	1	1
				Texaco Inc.	179	1	3
Humble Oil & Refining Co.	*132	1	6	Tidewater Oil Co.	79	1	4
Mobil Oil Corp.	201	--------	4				
				Union Oil Co. of California	118	1	4

*Operator.
**Operator, *et al.*
****Et al.*

APPENDIX C

SALES TO NORTHERN NATURAL GAS CO.

Producer	Rate schedule No.	Supplement numbers		Producer	Rate schedule No.	Supplement numbers	
		From—	To—			From—	To—
				Mobil Oil Corp.—Con.	315	1	3
Amerada Petroleum Corp.	*30	1	23				
	51	1	7				
	126	1	4	Joseph E. Seagram & Sons, Inc., d/b/a Texas Pacific Oil Co.	27	1	8
Atlantic Richfield Co.	*9	1	8	Signal Oil & Gas Co.	*11	1	1
	149	1	[1] 6	Sinclair Oil & Gas Co.	51	1	15
	248	1	6		*90	1	4
	276	1	1		254	1	6
	290	1	1		299	1	4
Cities Service Oil Co.	32	1	14		301	1	3
Continental Oil Co.	167	1	6		334	1	3
	215	1	6	Skelly Oil Co.	48	1	9
	233	1	1		162	1	4
	283	1	1	Sohio Petroleum Co.	*63	1	6
General Crude Oil Co.	6	1	4		107	1	5
Getty Oil Co.	3	1	7	Sun Oil Co.	60	1	13
	5	1	9		94	1	6
Gulf Oil Corp.	*15	1	31	Sunray DX Oil Co.	66	1	10
	48	1	6		95	1	4
	119	1	8		236	1	1
Marathon Oil Co.	*4	1	8	Tidewater Oil Co.	67	1	4
Mobil Oil Corp.	*17	1	19		76	1	6
	*80	1	7				

*Operator, *et al.*

[1] Insofar as the gas produced from the Puckett-Devonian Formation is concerned.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

PANHANDLE EASTERN PIPE LINE COMPANY, DOCKET NOS. CP65–255 AND CP66–244

ORDER AMENDING ORDERS ISSUING CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 26, 1966)

On June 20, 1966, Panhandle Eastern Pipe Line Company (Petitioner), filed in Docket No. CP66–244 a petition to amend the order of the Commission issued June 6, 1966, in Docket No. CP66-244, 35 FPC 896, and the order issued June 28, 1965, in Docket No. CP65-255, 33 FPC 1295, so as to enable Petitioner to effect the increases in contract demands requested by Petitioner's existing utility customers and which require the installation of certain additional facilities, all as more fully set forth in the petition to amend.

On June 6, 1966, in Docket No. CP66-244 the Commission issued a certificate of public convenience and necessity authorizing Petitioner to increase its system capacity by approximately 150,000 Mcf of gas per day. Petitioner states that subsequent to the filing of its application for certificate authorization in Docket No. CP66-244, requests for additional contract quantities were received from its following existing utility customers, some of which were included in the original application at contract demand levels lower than those which they are now requesting:

Battle Creek Gas Company
Central Indiana Gas Company
Citizens Gas Company of Hannibal, Missouri
Citizens Gas and Fuel Company
Indiana Gas Distribution Corporation
City of Macon, Missouri
Missouri Utilities Company
The Ohio Fuel Gas Company
Ohio Valley Gas Corporation
Town Gas Company of Illinois

The requested increases in contract demands for the above ten customers include increases in both summer and winter contract demands. The aggregate increase in winter contract demands involved in the proposed amendment is 29,270 Mcf, part of which is to be supplied from a portion of the unallocated capacity for which provision was made in the original application, and the balance is proposed to be supplied from the capacity for which authorization is being sought in the instant filing.

Increased deliveries to The Ohio Fuel Gas Company are dependent upon authorization of Ohio Fuel's proposals in Docket No. CP66-311, issued August 30, 1966, *infra*, p. 554.

Petitioner proposes in Docket No. CP66-244 to construct and operate approximately 34 miles of 30-inch diameter main line loop representing a continuation of its fourth main pipeline. In addition, Petitioner proposes to increase the cushion gas in its existing Howell Field and increase the maximum volumes stored in the field to 25,000,000 Mcf. To accomplish the latter, Petitioner requests the Commission to amend Paragraph (F) of the Commission's order issued June 28, 1965, in Docket No. CP65-255 which limited volumes stored to 23,500,000 Mcf.

The total estimated cost of Applicant's proposed construction is $4,565,000, which is proposed to be financed initially through the use of short-term bank loans.

Due notice of the filing of the application to amend and opportunity for hearing thereon have been given by publication in the Federal Register on July 7, 1966 (31 F.R. 9322). No protest, petition to intervene, or notice of intervention has been filed in this proceeding concerning this amendment.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act, and the public convenience and necessity require that the Commission's orders issued June 6, 1966, in Docket No. CP66-244 and June 28, 1965, in Docket No. CP65-255 be amended as hereinafter ordered and conditioned.

The Commission orders:

(A) The Commission's order issued June 6, 1966, in Docket No. CP66-244 is amended so as to modify Ordering Paragraph (A) thereof and authorize the proposed construction, operation of facilities and additional delivery of up to 29,270 Mcf per day of winter contract demands; and the order issued June 28, 1965, in Docket No. CP65-255 is amended so as to modify Ordering Paragraph (F) thereof and raise the volumetric limitation of the maximum reservoir gas content of Howell Storage Field from 23,500,000 Mcf to 25,000,000 Mcf at 14.73 psia, all as described herein and as more fully described in the application for amendment.

(B) The amendments authorized by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with applicable Commission Regulations under the Natural Gas Act and particularly the conditions set forth in paragraph (f) of Section 157.20 of such Regulations.

(C) In all other respects said order shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

TENNESSEE GAS PIPELINE COMPANY, A DIVISION OF TENNECO INC.

DOCKET NO. CP66-394

FINDINGS AND ORDER AFTER STATUTORY HEARING PERMITTING AND APPROVING ABANDONMENT OF SERVICE AND FACILITIES

(Issued August 26, 1966)

On May 31, 1966, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant) filed in Docket No. CP66-394 an application, as supplemented on July 25, 1966, pursuant to Section 7(b) of the Natural Gas Act requesting permission and approval to abandon a metering station on its main transmission line in Marion County, Kentucky, and to abandon natural gas service to Louisville Gas and Electric Company (Louisville) effective September 1, 1967, all as more fully set forth in the application.

Louisville is presently being served both by Applicant and Texas Gas Transmission Corporation (Texas Gas). Applicant's gas sales contract with Louisville dated January 1, 1955, provides for a contract demand of 26,520 Mcf per day under Rate Schedule CD-2. The contract also provides for its termination by written notice of either party, and by letter dated March 23, 1965, Louisville notified Applicant of its intention to terminate the contract as of September 1, 1967, in accordance with said provision. Louisville intends to obtain its entire natural gas supply from Texas Gas.[1]

After due notice, no protest, petition to intervene or notice of intervention has been filed herein.

At a hearing held on August 25, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization, sought herein, and upon consideration of the record,

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[1] Texas Gas has proposed to render the additional service to Louisville in its pending application in Docket No. CP66-149 (Phase II).

The Commission finds:

(1) Applicant, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., a Delaware corporation having its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of July 15, 1947, in Docket No. G-910 (6 FPC 777).

(2) The facilities to be abandoned, as hereinbefore described, and more fully described in the application in this proceeding, are used in the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission, and abandonment of such facilities and the abandonment of the sale of natural gas in interstate commerce are subject to the requirements of Subsection (b) of Section 7 of the Natural Gas Act.

(3) The abandonment by Applicant, as hereinbefore described, is permitted by the public convenience and necessity and an order approving same should be issued as hereinafter ordered and conditioned.

The Commission orders:

(A) Permission for and approval of the abandonment by Applicant of the facilities and service hereinbefore described, all as more fully described in the application in this proceeding, are granted upon the terms and conditions of this order.

(B) The permission and approval granted by paragraph (A) above and the rights granted thereunder are conditioned upon receipt by Texas Gas of authorization to serve Louisville as proposed in its pending application in Docket No. CP66-149 (Phase II).

(C) The permission and approval granted by paragraph (A) above should not be construed as a commitment on the part of the Commission of favorable action in Docket No. CP66-149 (Phase II).

(D) Applicant shall advise the Commission of the date of the subject abandonment within ten days thereof.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

TENNESSEE GAS PIPELINE COMPANY, A DIVISION OF TENNECO INC., DOCKET NO. CP66-398

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 26, 1966)

On June 6, 1966, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant) filed in Docket No. CP66-398 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery north of Compressor Station No. 87 of an additional 25,500 Mcf per day (14.73 psia) of contract demand gas to an existing customer, United Fuel Gas Company (United Fuel), all as more fully set forth in the application in this proceeding.

Applicant proposes to render the additional service to United Fuel by utilizing surplus storage gas and, when appropriate, by displacement through the utilization of a transportation service provided by Texas Gas Transmission Corporation (Texas Gas) which service was authorized by Commission order issued July 12, 1966, in Docket No. CP66–364, 36 FPC 56. Applicant will use a portion of its anticipated 8,300,000 Mcf of surplus storage gas during the 1966–67 withdrawal season and, if available, during the 1967 storage injection season until September 1, 1967. Against the eventuality that such surplus volumes may not materialize as expected, Applicant will utilize the Texas Gas transportation service ending September 1, 1967, at which date the transportation service is to terminate. After September 1, 1967, Applicant will have available additional unallocated capacity north of its Station No. 87 by reason of the abandonment of the sale of gas to Louisville Gas and Electric Company. Such abandonment in Docket No. CP66–394 is being authorized concurrently with the subject order, *supra*, p. 540. Accordingly, after September 1, 1967, Applicant will have sufficient unallocated capacity north of Station No. 87 to serve the proposed increased requirements of United Fuel on a long term basis.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing on August 25, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., a Delaware corporation having its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of July 12, 1947, in Docket No. G–910 (6 FPC 777).

(2) The proposed sale and delivery of natural gas by Applicant will be in interstate commerce, subject to the jurisdiction of the Commission and such proposed sale and delivery of natural gas are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The proposed sale and transportation of natural gas by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(3) and (e) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Applicant, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., to sell and deliver natural gas as hereinbefore described, all as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(3) and (e) of Section 157.20 of such Regulations.

(C) The proposed sale and delivery of natural gas authorized in paragraph (A) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act within 3 months from the date on which this order issues.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

IOWA ELECTRIC LIGHT AND POWER COMPANY, DOCKET NO. E-7305

ORDER AUTHORIZING ISSUANCE OF FIRST MORTGAGE BONDS

(Issued August 29, 1966)

Iowa Electric Light and Power Company (Applicant) filed an application on August 3, 1966, seeking an order pursuant to Section 204 of the Federal Power Act authorizing it to issue $15,000,000 First Mortgage Bonds and 100,000 shares of its Cumulative Preferred Stock, par value of $50 per share. This order relates to Applicant's request to issue First Mortgage Bonds.

Applicant is incorporated under the laws of the State of Iowa and is authorized to do business in the States of Iowa, Minnesota, Colorado and Nebraska with its principal place of business office at Cedar Rapids, Iowa. Applicant is engaged primarily in the generation, transmission and sale at retail of electric energy in 51 counties in the State of Iowa.

The Bonds which are to mature September 1, 1996, will be issued as of September 1, 1966, under the Applicant's Indenture of Mortgage and Deed of Trust, dated August 1, 1940, as heretofore amended and supplemented by thirty-one supplemental indentures and as to be further supplemented by a thirty-second supplemental indenture to be dated September 1, 1966, between the Applicant and the First National Bank of Chicago, as Trustee. The rate of interest to be paid by the Applicant will be determined by competitive bidding in accordance with the Commission's regulations under the Federal Power Act.

The Applicant proposes to publish a Public Invitation for Bids for the purchase of Bonds, on or about August 31, 1966, in the New York and Midwest editions of the Wall Street Journal. The Statement of Terms and Conditions Relating to Bids will contain the following principal provisions:

> Each bid must be for the purchase of all the Bonds and may be made by a single bidder or by a group of bidders. No bidder may submit or participate in more than one bid. Each bid must be delivered to the Applicant at the office of the First National Bank of Chicago, The Whitehall Room, 4th Floor, 38 South Dearborn Street, Chicago, Illinois, at or before 9:30 A.M., Chicago Time, on September 13, 1966, and be accompanied by a deposit of $450,000.
>
> Each bid shall specify the annual interest rate to be borne by the Bonds, which rate shall be a multiple of ⅛ of 1%; and shall also specify the price to be paid to the Applicant for the Bonds, which price shall not be less than the principal amount and not more than 102¾% of the principal amount.
>
> Unless the Applicant shall reject all bids or exclude a bid or bids for reasons set forth in the Statement of Terms and Conditions, it will accept the bid which provides the lowest annual cost of money.

According to the Applicant the proceeds from the sale of the Bonds will be used to finance the construction, completion, extension and improvement of facilities and the replacement of short-term borrowings from commercial banks aggregating $9.9 million as of June 30, 1966. The construction program includes the expenditure of $11.9 million in 1966 for work on Applicant's 140 megawatt unit being installed at the Prairie Creek site in Cedar Rapids, $2 million for transmission line facilities and $8.3 million for substations.

Written notice of the application has been given to the Iowa State Commerce Commission, Minnesota Railroad and Warehouse Commission, the Colorado Public Utilities Commission, the Nebraska State Railway Commission, and to the Governors of these states. Notice of the application was also published in the Federal Register on August 13, 1966 (31 F.R. 10864), stating that any person desiring to be heard or to make any protest with reference to the application, should on or before August 26, 1966, file petitions or protests with the Federal Power Commission, Washington, D.C. 20426. No protest or petition has been filed.

The Commission finds:

(1) Applicant, a corporation, owns and operates facilities for the transmission and sale at wholesale of electric energy which is generated in the States of Illinois, South Dakota and Wisconsin and consumed in the State of Iowa, all of which facilities are in addition to, and do not include, facilities used for the generation of electric energy or facilities used in local distribution or solely for the transmission of electric energy consumed wholly by the transmitter. Applicant, therefore, is a public utility within the meaning of that term as used in Section 203 of the Federal Power Act.

(2) The proposed issuance and sale of Bonds, as described above, will constitute an issuance of securities within the purview of Section 204 of the Federal Power Act.

(3) Applicant is not organized and operating in a State under the laws of which the security issue here involved is regulated by a State Commission within the meaning of Section 204(f) of the Act, and the proposed issuance of securities is, therefore, not exempt by virtue of that Section from the requirements of Section 204 of the Act.

(4) The proposed issuance and sale of Bonds, as hereinafter authorized, will be for a lawful object, within the corporate purposes of the Applicant and compatible with the public interest, which is appropriate for and consistent with the proper performance by Applicant of service as a public utility and which will not impair its ability to perform that service, and is reasonably appropriate for such purposes.

(5) The period of public notice given in this matter is reasonable.

The Commission orders:

(A) The proposed issuance and sale of Bonds, upon the terms and conditions and for the purposes specified in the application, as described above, are authorized, subject to the provisions of this order.

(B) The proposed issuance and sale of Bonds at competitive bidding shall not be consummated until:

(1) Applicant shall have amended its application pursuant to the requirements of Section 34.2(g) of the Commission's Regulations under the Federal Power Act relating to compliance with competitive bidding requirements, and Section 34.2(h)(1) of those Regulations relating to affiliation, and shall have either filed such amendments or shall have mailed them and advised the Commission by telephone and telegraph, as contemplated in Section 34.9 of the Regulations.

(ii) The Commission, by further order, shall have approved the price to be received by Applicant for the proposed issuance of Bonds and the interest rate thereof.

(C) This authorization shall expire unless the transaction hereby authorized is consummated within 90 days from the date of issuance of this order.

(D) The foregoing authorization is without prejudice to the authority of this Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates or determinations or cost, or any other matter whatsoever now pending or which may come before this Commission.

(E) Nothing in this order shall be construed to imply any guarantee or obligation on the part of the United States in respect to any security to which this order relates.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

SOUTH CAROLINA PUBLIC SERVICE AUTHORITY, PROJECT NO. 199

ORDER AUTHORIZING SALE OF PARCEL OF PROJECT LAND AND APPROVING REVISED PROJECT EXHIBIT

(Issued August 29, 1966)

On August 8, 1966, South Carolina Public Service Authority, licensee for Project No. 199, located on the Santee and Cooper Rivers, South Carolina, filed application for Commission authorization to sell a 41.8 acre parcel of project land to Aerovox Corporation, of New Bedford, Massachusetts, for the construction thereon of an electrolytic capacitor manufacturing plant. Exhibit K, Sheet 34, Revised (FPC No. 199–172), which was filed as part of the application and which we are asked to approve as part of the license for the project reflects a change in project area and boundary as a result of this sale.

The land was used as a "borrow pit" during construction of the project dam and dikes; has since lain idle and become overgrown; is not required for recreational development in connection with the project; and is not required for other project purposes.

The land is located alongside the Atlantic Coast Line Railroad tracks in Berkeley County which has been classified as a depressed area. The Licensee advises that the use of the land for the purpose proposed will be advantageous in several respects in that the plant is to cost initially some two and one-half million dollars; will bring employment to some 500 workers on an "equal employment opportunity" basis; and will not significantly contribute to either air or water pollution.

The Commission finds:

(1) It is in the public interest to authorize the sale of the project parcel as hereinafter provided.

(2) Exhibit K, Sheet 34, Revised (FPC No. 199–172), conforms to the Commission's rules and regulations and should be approved as part of the license for the project, and license Exhibit K, Sheet 34 (FPC No. 199–97), which has been superseded should be eliminated from the license for the project.

The Commission orders:

(A) South Carolina Public Service Authority is hereby authorized to effect the sale of the parcel of project land herein involved: *Provided, however,* That the licensee incorporate in any agreement or instrument effectuating such disposal a covenant or condition insuring that the use of such land will not endanger health, create a nuisance, or otherwise be incompatible with overall project recreational use in accordance with paragraph (C) of the Commission's Order No. 313, issued December 27, 1965, 34 FPC 1546.

(B) The revised Exhibit K described in finding (2) above is hereby approved as part of the license for Project No. 199, and the superseded license Exhibit K mentioned in the same finding is hereby eliminated from the license for the project.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

ATLANTIC SEABOARD CORPORATION, DOCKET NO. CP67-11

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 30, 1966)

On July 18, 1966, Atlantic Seaboard Corporation (Applicant) filed in Docket No. CP67-11 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a mainline tap and appurtenant metering facilities on its 20-inch pipeline in Harford County, Maryland, in order to establish an additional delivery point for the sale of natural gas to Baltimore Gas and Electric Company (Baltimore), an existing wholesale customer, for resale to two residential communities near the Town of Rutledge, Harford County, Maryland, all as more fully set forth in the application.

Natural gas service to Baltimore at the proposed new delivery point will be made by Applicant pursuant to its FPC Rate Schedule CDS-1 and WS of its effective FPC Gas Tariff Eighth Revised Volume No. 1. The estimated third year peak day and annual natural gas requirements of the proposed service area are 75.6 Mcf and 13,068 Mcf, respectively. No increase in total authorized deliveries to Baltimore is requested.

The total estimated cost of Applicant's proposed facilities is $3,050, which cost will be financed from funds generated from operations.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on August 25, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Atlantic Seaboard Corporation, a Delaware corporation having its principal place of business in Charleston, West Virginia, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of March 16, 1943, in Docket No. G-284 (3 FPC 941).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(6) The certificate hereinafter issued should be conditioned upon the filing by Applicant of a revised service agreement with Baltimore Gas and Electric Company in accordance with the Commission's Regulations under the Natural Gas Act.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, Atlantic Seaboard Corporation, authorizing construction and operation of the facilities hereinbefore described, as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The facilities hereby authorized shall be constructed and placed in actual operation, as provided by paragraph (b) of Section 157.20 of the Regulations under the Natural Gas Act, by September 15, 1966.

(D) The certificate issued by paragraph (A) above is conditioned upon the filing by Applicant of a revised service agreement with Baltimore Gas and Electric Company in accordance with the Commission's Regulations under the Natural Gas Act.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

CONCORD ELECTRIC COMPANY, PROJECT NO. 1903

ORDER ACCEPTING SURRENDER OF LICENSE (MAJOR)

(Issued August 30, 1966)

On November 13, 1964, Concord Electric Company, licensee for major Project No. 1903, filed under Section 6 of the Federal Power Act, an application for surrender of its license for the Sewalls Falls project located on the Merrimack River in the City of Concord, Merrimack County, New Hampshire. The licensee's copy of the license instrument was returned with the application.

The licensee has advised that the continued operation of the project is not economically justified and that the project should be retired. The dam was constructed in 1894 and the total installed capacity of the project is 2,200 kilowatts. We stated in our June 6, 1966 order (35 FPC 884) issuing a license for minor Project No. 2488, which began operating in 1908 that: "It may be that the operation of projects of this nature may well become uneconomic before the license expires as its operating costs increase and alternative sources of power become less expensive", and we added "we are confident that the licensee will file an application to surrender the license for the project at such time as this situation occurs, thereby permitting its removal or converting its use to other purposes." Although the installed capacity of Project No. 1903 exceeds that of a minor project as defined in Section 10(i) of the Act we believe that surrender should be accepted for this uneconomic development subject to appropriate conditions.

The U.S. Corps of Engineers has reported that it has no objection to Commission acceptance of surrender of the license.

The Department of the Interior recommended in its first report on the application that surrender of the license not be accepted until either or both the licensee and the succeeding project sponsor agree to construct, operate and maintain such fish passage facilities as may be recommended by the Bureau of Sport Fisheries and Wildlife and the New Hampshire Fish and Game Department.

The Department of Health, Education, and Welfare has advised that it has no objection to surrender of the license provided that the main dam is removed and the canal and penstock system is shut off and the total flow of the river is assured.

The Fish and Game Department of the State of New Hampshire has recommended that surrender of the license be accepted on the condition that the licensee remove the dam to allow free passage of fish.

The City of Concord, New Hampshire, has reported that the dam should remain in the river in the interest of recreation.

The comments and recommendations of those reporting on the application were transmitted to the licensee for its information, and we are advised by the latter that following consultations with most of the reporting agencies, both State and Federal, proposals were made by the licensee to resolve the differences in views. Essentially, the licensee proposes that: (1) the licensee will dismantle the powerhouse and appurtenant facilities and leave the dam in the river and be responsible for its maintenance until December 31, 1969, during which period it will attempt to dispose of the dam and appropriate amount of land to the State or the City of Concord; and (2) if neither the State of New Hampshire nor the City acquires the dam by December 31, 1969, the licensee will be free to dispose of the dam to any other public agency. The licensee also proposes that in any conveyance of the dam, the grantee will be required to maintain the dam and build a fishway if requested by the Department of the Interior, or in the alternative that the grantee shall remove enough of the dam to permit free passage of water and fish as the licensee would do if the dam were not conveyed. We are now advised by the Department of the Interior, in a further report, that the licensee's proposals would be an appropriate solution to the immediate problem, and the Department recommended that any order accepting surrender of the license provide that the responsibility for maintenance of the dam remain with the licensee until December 31, 1969, unless sold to the State of New Hampshire, and that in the event the dam is to be breached, it be completely removed from the river. The licensee's proposals and the Department of the Interior's recommendation with respect thereto are substantially provided for in the conditions attending our acceptance of surrender of the license.

Annual charges under the license for the project have been paid through December 31, 1965.

The Commission finds:

(1) Public notice of the application has been given. No protests or petitions to intervene have been received.

(2) Acceptance of surrender of the license for the project is appropriate as hereinafter provided.

The Commission orders:

(A) Surrender of the license for Project No. 1903 is hereby accepted effective as of September 1, 1966, subject to: (1) restoration of the site of the power canal and powerhouse to a condition satisfactory to the Commission; (2) possible conveyance of the dam, forebay, and headgate structures to the State of New Hampshire or a political subdivision thereof by December 31, 1969, or in the event that there is no such conveyance, the licensee shall remove the dam and headgate structure and restore the site to a condition satisfactory to the Commission by July 1, 1970; (3) prior to such disposal or removal, the licensee shall maintain the dam, forebay and headgate structure in a condition satisfactory to the Commission; and (4) any conveyance of the dam shall be subject to the conditions that the grantee shall construct, operate and maintain such fish passage facilities as may be requested by the Secretary of the Interior or that the grantee shall remove the dam to permit the full passage of water and fish.

(B) The licensee shall submit to the Commission, within 30 days of the effective date of surrender, a report under oath of the power generated by the project to such effective date, and shall pay the annual charges under the license to such effective date within 45 days from the rendition of a bill therefor by the Commission.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

EL PASO NATURAL GAS COMPANY, DOCKET NO. CP66-424

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 30, 1966)

On June 24, 1966, El Paso Natural Gas Company (Applicant) filed in Docket No. CP66-424 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and the sale and delivery of natural gas to The Washington Water Power Company (Water Power) for transportation to and resale and distribution in the communities of Kettle Falls, Colville, Chewelah, Colton, Uniontown and Spangle, Washington, and their respective environs, and to California-Pacific Utilities Company (Cal-Pac) for transportation to and resale and distribution in the community of Union, Oregon, and environs, all as more fully set forth in the application in this proceeding.

Applicant proposes to construct and operate four measuring and regulating stations, one of which is to provide service for Kettle Falls, Colville and Chewelah, Washington, and the remaining three of which are to provide service to Colton and Uniontown, Washington, and Union, Oregon. Service to Spangle, Washington, will be provided by means of an existing measuring and regulating station owned and operated by Pacific Gas Transmission Company and with gas transported by Pacific Gas Transmission Company for the account of Applicant. Applicant also proposes to construct and operate approximately 4,700 feet of 4½-inch O.D. branch transmission pipeline, and necessary appurtenances, in conjunction with the measuring and regulating station proposed to provide service for Union, Oregon.

Water Power will transport the gas received by it, through facilities which it proposes to construct, to points of resale and distribution in the communities of Kettle Falls, Colville, Chewelah, Colton, Uniontown and Spangle, Washington. Cal-Pac will transport the gas received by it, through facilities which it proposes to construct, to points of resale and distribution in the community of Union, Oregon, and environs.

The estimated maximum daily and annual gas requirements of Water Power during the third full year of proposed natural gas service are 5,095 Mcf and 1,223,005 Mcf, respectively, and the requirements of Cal-Pac during the same period of time are 404 Mcf and 55,970 Mcf, respectively. The sales and deliveries which are the subject of the instant application are proposed to be made in accordance with the rates contained in Applicant's Rate Schedules DS-1, DS-4 and DL-1, FPC Gas Tariff Original Volume No. 3.

If the instant application is approved prior to the grant of authorizations sought by Applicant in its application filed in Docket No. CP66-27 the facilities and services embraced by the instant application will be divested by Applicant to Northwest Pipeline Corporation in accordance with said authorizations.[1]

The total estimated cost of Applicant's proposed facilities is $87,800, which cost will be financed by means of working funds.

Due notice of the filing of the instant application was published in the Federal Register on July 14, 1966 (31 F.R. 9563). On July 18, 1966, the Public Utility Commissioner of Oregon filed a notice of intervention and waiver of hearing in support of the instant application. No other notice of intervention, petition to intervene or protest to the granting of the application has been filed.

At a hearing held on August 25, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, El Paso Natural Gas Company, a Delaware Corporation with its principal place of business in El Paso, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of October 29, 1942, in Docket Nos. G-242 and G-257 (3 FPC 851).

(2) The facilities hereinbefore described and as more fully described in the application in this proceeding are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof and the transportation and sale of natural gas by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

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[1] See Notice of Applications, Consolidation of Proceedings and Requirement to File Testimony, 30 F.R. 11003, August 25, 1965, regarding application of Applicant and applications of Northwest Pipeline Corporation in Docket Nos. CP66-28, CP66-29 and CP66-30, relating to the divestiture by Applicant of its Northwest Division System.

(4) The construction and operation of the proposed facilities and the transportation and sale of natural gas by Applicant are required by the public convenience and necessity, and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate hereinafter issued and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of said Regulations.

(6) The certificate hereinafter issued should be conditioned upon Applicant's filing with the Commission appropriate revised service agreements with The Washington Water Power Company and California-Pacific Utilities Company in accordance with the Commission's Regulations under the Natural Gas Act.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to El Paso Natural Gas Company authorizing the construction and operation of the facilities and the transportation and sale of natural gas as hereinbefore described and as more fully set forth in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be completed and placed in actual operation and transportation and sale of natural gas authorized in paragraph (A) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act within one year from the date of this order.

(D) The certificate issued by paragraph (A) above is conditioned upon Applicant's filing with the Commission appropriate revised service agreements with The Washington Water Power Company and California-Pacific Utilities Company in accordance with the Commission's Regulations under the Natural Gas Act.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

THE MANUFACTURERS LIGHT AND HEAT COMPANY,
DOCKET NO. CP66–427

FINDINGS AND ORDER AFTER STATUTORY HEARING PERMITTING AND APPROVING ABANDONMENT AND ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 30, 1966)

On June 28, 1966, The Manufacturers Light and Heat Company (Applicant), filed in Docket No. CP66–427 an application pursuant to Sections 7(c) and 7(b) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and permission and approval to abandon certain other facilities, all in Beaver County, Pennsylvania, as more fully set forth in the application.

Applicant seeks authorization to construct and operate approximately 5.5 miles of 20-inch transmission pipeline looping its existing 16-inch Line 500 from a point in Daugherty Township, Beaver County, Pennsylvania, northerly to a point in Franklin Township, Beaver County, Pennsylvania, and to abandon 3.1 miles of its Line No. 65 from a point in Center Township, Beaver County, Pennsylvania, to its terminus in the Borough of Monaca, Beaver County, Pennsylvania.

Applicant states that due to the age and condition of Line 500 between Monaca and Ellwood City Compressor Station it is limiting the operating pressure to 300 psig. This reduction in the operating pressure reduces the capacity of the transmission system serving this area to 117,212 Mcf per day which is 42,000 Mcf less than the estimated requirements on said maximum day. The proposed 5.5 mile loop of the section of Line 500 between Line 1649 and Ellwood City Compressor Station will provide Applicant with sufficient capacity to serve this Market Area during the 1966–67 winter period.

Applicant states that upon completion of the proposed construction, it will be able to abandon a 3.1 mile section of existing Line 65 between Aliquippa and Monaca, Pennsylvania. The section of Line 65 proposed to be abandoned was installed in 1911 and its age and condition is such that replacement would be necessary in the very near future in any event.

The total estimated cost of Applicant's proposed construction is $525,000, which cost will be financed through the issuance and sale of promissory notes or common stock to Applicant's parent company, The Columbia Gas System, Inc.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on August 25, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, The Manufacturers Light and Heat Company, a Pennsylvania corporation having its principal place of business in Pittsburgh, Pennsylvania, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of December 29, 1944, in Docket No. G–593, *et al.* (4 FPC 821).

(2) The facilities proposed to be abandoned by Applicant as hereinbefore described and as more fully described in the application are used in the transportation and sale of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and such abandonment is subject to the requirements of Subsection (b) of Section 7 of the Natural Gas Act.

(3) The proposed abandonment of the aforesaid facilities by Applicant is permitted by the public convenience and necessity and permission and approval thereof should be granted as hereinafter ordered.

(4) The proposed construction and operation of facilities by Applicant as hereinbefore described and as more fully described in the application are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(5) The aforesaid proposed construction and operation of facilities, are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(6) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(7) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's com-

pliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) Permission for and approval of the abandonment by Applicant of the facilities hereinbefore described, as more fully described in the application are granted.

(B) A certificate of public convenience and necessity is issued to Applicant, authorizing the construction and operation of facilities as hereinbefore described, all as more fully described in the application.

(C) The certificate issued by paragraph (B) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(D) Applicant shall advise the Commission of the date of abandonment of the facilities as authorized in paragraph (A) above within ten days of such abandonment.

(E) The facilities authorized shall be completed and placed in actual operation, as provided in paragraph (b) of Section 157.20 of the aforesaid Regulations by January 1, 1967.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

NORTHERN NATURAL GAS COMPANY, DOCKET NO. CP67-3

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 30, 1966)

On July 11, 1966, Northern Natural Gas Company (Applicant) filed in Docket No. CP67-3 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a measuring and regulating station and appurtenant facilities near Tama, Iowa, for the sale and delivery of natural gas to Iowa Electric Light and Power Company (Iowa Electric), an existing resale customer, for resale to two new industrial customers, all as more fully set forth in the application.

The total annual sales of natural gas involved in the instant proposal are estimated to be 125,750 Mcf of which 3,400 Mcf will be on a firm basis. Such sales of natural gas will be made under Applicant's FPC Gas Rate Schedules CD-3 and R-3. No increase in Iowa Electric's contract demand is proposed.

The total estimated cost of Applicant's proposed construction is $11,320, which cost will be financed from cash on hand. Under the general terms and conditions of Applicant's tariff, Iowa Electric will reimburse Applicant for the total actual cost of the proposed facilities.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on August 25, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Northern Natural Gas Company, a Delaware Corporation with its principal place of business in Omaha, Nebraska, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order issued on April 6, 1943, in Docket No. G–280 (3 FPC 967).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, Northern Natural Gas Company, authorizing the construction and operation of facilities as hereinbefore described and as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The facilities hereby authorized shall be completed and placed in actual operation, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within six months from the date of this order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

THE OHIO FUEL GAS COMPANY, DOCKET NO. CP66–311

FINDINGS AND ORDER AFTER STATUTORY HEARING PERMITTING AND APPROVING ABANDONMENT AND ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 30, 1966)

On April 1, 1966, The Ohio Fuel Gas Company (Applicant), filed in Docket No. CP66–311 an application as supplemented June 28, 1966, pursuant to Sections 7(b) and 7(c) of the Natural Gas Act for permission and approval to abandon certain natural gas facilities and for a certificate of public convenience and necessity authorizing the construction and operation of certain replacements on its existing transmission system in the State of Ohio to enable Applicant to provide increased capacity to serve growing requirements of existing markets, and to assure adequate market service, all as more fully set forth in the application.

Construct and operate:

(1) 2.0 miles of 10¾-inch O.D. pipeline in Athens County, Ohio, replacing a section of its Line E–61 serving the Athens market area,

(2) 2.8 miles of 16-inch O.D. pipeline in Medina County, Ohio, replacing sections of its 12¾-inch O.E. Line L serving the Medina-Lodi market area and also transporting gas to York Compressor Station,

(3) 5.2 miles of 20-inch O.D. pipeline in Hardin and Marion Counties, Ohio, extending its Line D–500, looping an additional section of its Lines D–322 and D–357 serving the Lima market area,

(4) 5.2 miles of 6⅝-inch O.D. pipeline in Holmes and Wayne Counties, Ohio, extending its Line L–2975 from Line FL–376 to Line V for improved service to the Holmesville-Millersburg market area,

(5) 3.0 miles of 8⅝-inch O.D. pipeline in Guernsey County, Ohio, extending Line O–880 to Applicant's interconnection with Tennessee Gas Transmission Company for improved service to the Barnesville-St. Clairsville market area,

(6) 4.3 miles of 8⅝-inch O.D. pipeline in Fayette County, Ohio, replacing a section of its Line A–127 serving the Greenfield market area and

(7) valves, fittings and incidental facilities necessary for practical operation.

Abandon and remove:

9.1 miles of existing 5-inch to 12-inch transmission pipeline covering six widely scattered projects in Ohio.

Applicant further proposes that the present limitations on the maximum daily deliveries under firm rate schedules to the following listed customers be adjusted for the 1966–67 winter as follows:

Customer	Maximum daily delivery (Mcf @ 14.73 psia)	
	Present	Proposed
Cincinnati Gas & Electric Co	80,000	90,000
Columbia Gas of Ohio, Inc	1,878,200	1,917,400
Dayton Power & Light Co	390,000	413,400
Delaware Gas Co	11,300	11,576
City of Lancaster, Ohio	20,400	21,362
Syracuse Home Utilities Co	300	310
Waterville Gas & Oil Co	2,870	3,290
West Ohio Gas Co	82,600	85,000
Albany Oil & Gas Co., Inc	445	800
Forest Gas & Oil Co	450	460
Vanlue Gas Co	300	370

The City of Hamilton, Ohio, presently supplied by Cincinnati Gas & Electric Company (Cincinnati) which in turn obtains a portion of its peak day requirements from Applicant, filed a petition to intervene in the instant matter. Hamilton contends that any authorization granted Applicant for the herein proposed additional firm deliveries of 10,000 Mcf per day for Cincinnati should not prejudice its proposal in the consolidated proceedings in Docket No. CP65–402, *et al.* In these proceedings Hamilton is seeking a direct pipeline supply of gas from Texas Gas Transmission Corporation (Texas Gas) beginning with the 1967–68 winter in lieu of present service by Cincinnati. Hamilton does not oppose the requested authorization provided it does not prejudice Hamilton's rights in Docket No. CP65–402.

The total estimated cost of Applicant's proposed facilities is $967,000, which cost will be financed through Applicant's parent, The Columbia Gas System, Inc.

Applicant's ability to render increased service is dependent upon the purchase of increased volumes of natural gas from Panhandle Eastern Pipe Line Company. Panhandle Eastern, on June 20, 1966, filed for amendment of the Commission's order in Docket No. CP66–244 authorizing the necessary increase in deliveries to Applicant. Our amending order in Docket No. CP66–244 was issued August 26, 1966, *supra*, p. 538.

After due notice, no petition to intervene other than that of the City of Hamilton, Ohio, notice of intervention, or protest to the granting of the application has been filed.

At a hearing held on August 25, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, The Ohio Fuel Gas Company, an Ohio corporation having its principal place of business in Columbus, Ohio, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of August 21, 1945, in Docket No. G–371 (4 FPC 1033).

(2) The facilities proposed to be abandoned by Applicant as hereinbefore described and as more fully described in the application are used in the transportation and sale of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and such abandonment is subject to the requirements of Subsection (b) of Section 7 of the Natural Gas Act.

(3) The proposed abandonment of the aforesaid facilities by Applicant is permitted by the public convenience and necessity and permission and approval thereof should be granted as hereinafter ordered.

(4) The proposed construction and operation of facilities by Applicant as hereinbefore described and as more fully described in the application are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(5) The aforesaid proposed construction and operation of facilities, are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(6) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(7) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) Permission for and approval of the abandonment by Applicant of the facilities hereinbefore described, as more fully described in the application are granted.

(B) A certificate of public convenience and necessity is issued to Applicant authorizing the construction and operation of facilities as hereinbefore described, and the increase of firm deliveries as hereinbefore described and as more fully described in the application and revised Exhibit Z–1 thereto.

(C) The certificate issued by paragraph (B) above and the rights granted thereunder are without prejudice to the City of Hamilton's position in Docket No. CP65–402, *et al.*, and are conditioned upon compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(D) Applicant shall advise the Commission of the date of abandonment of the facilities as authorized in paragraph (A) above within ten days of such abandonment.

(E) The facilities authorized shall be completed and placed in actual operation, as provided in paragraph (b) of Section 157.20 of the aforesaid Regulations within 12 months of the date on which this order issues.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

SOUTH GEORGIA NATURAL GAS COMPANY, DOCKET NO. CP66–430

FINDINGS AND ORDER AFTER STATUTORY HEARING PERMITTING AND APPROVING ABANDONMENT

(Issued August 30, 1966)

On June 30, 1966, South Georgia Natural Gas Company (Applicant), filed in Docket No. CP66–430 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon approximately 16,000 feet of its 6⅝-inch transmission pipeline which is now serving the City of Tallahassee, Florida, and for authority to move its existing metering and regulating station in a northerly direction approximately 16,000 feet, all as more fully set forth in the application.

Applicant proposes to sell to the City of Tallahassee approximately 16,000 feet of its 6⅝-inch O.D. Line No. 18 and to move its metering and regulating station in a northerly direction so that the City of Tallahassee will own the right of way and the approximately 16,000 feet of gas transmission pipeline which will become a part of that City's distribution system.

The City of Tallahassee has advised Applicant of its plans to develop the potential gas load of its residential area which would require duplication of facilities presently owned and operated by Applicant. The proposed transfer to the City of Tallahassee of the aforementioned portion of Applicant's Line No. 18 will eliminate the need for construction of such duplicate facilities.

After due notice, no petition to intervene, notice of intervention, or protest to the granting of the application has been filed.

At a hearing held on August 25, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, South Georgia Natural Gas Company, a Georgia corporation having its principal place of business in Thomasville, Georgia, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found

by the Commission in its order issued August 3, 1954, in Docket No. G–1915 (13 FPC 666).

(2) The facilities proposed to be abandoned, as hereinbefore described and as more fully described in the application herein are used in the transportation and sale of natural gas in interstate commerce subject to the jurisdiction of the Commission and such abandonment is subject to the requirements of subsection (b) of Section 7 of the Natural Gas Act.

(3) The proposed abandonment of the aforesaid facilities by sale to the City of Tallahassee, Florida, is permitted by the public convenience and necessity and approval thereof should be granted as hereinafter ordered.

The Commission orders:

(A) Permission for and approval of the abandonment of the facilities hereinbefore described, as more fully described in the application in this proceeding, are granted to Applicant, South Georgia Natural Gas Company.

(B) Applicant shall advise the Commission of the date of abandonment of the facilities as authorized in paragraph (A) above within ten days of such abandonment.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

TRANSWESTERN PIPELINE COMPANY, DOCKET NO. RP67–8 AND EL PASO NATURAL GAS COMPANY, DOCKET NO. RP67–9

ORDER TO SHOW CAUSE INSTITUTING PROCEEDING ON FLOW THROUGH OF LIBERALIZED DEPRECIATION TAX DEDUCTIONS

(August 30, 1966)*

The Commission in its Opinion No. 500, issued July 26, 1966, 36 FPC 176 (Transwestern Pipeline Company, *et al.*, Docket No. CP63–204, *et al.*) granted certificates of public convenience and necessity to Transwestern Pipeline Company (Transwestern) and El Paso Natural Gas Company (El Paso), subject to the conditions therein set forth. Among other things, the Commission there stated that although there appeared to be a *prima facie* case for applying the policy of *Alabama-Tennessee Natural Gas Company*, Opinion No. 417, 31 FPC 208, affirmed 359 F. 2d 318 (CA5), to both of the successful applicants, it would nevertheless be more appropriate to accord the companies an opportunity to present a more complete record showing cause, if any there be, why their rates should not be further reduced to flow through the benefits of utilizing liberalized depreciation for tax purposes and to deduct the accumulated reserves in Account No. 282 from the rate base upon which their return is calculated.

These proceedings[1] are being instituted for purposes of implementing that prior determination.

We noted in Opinion No. 500 that the annual reports (Form No. 2) filed by Transwestern and El Paso indicate that each of those companies have growing plants, even without consideration of the effect of the expansions authorized by that opinion. The reports filed for calendar year 1965 show that Transwestern and El Paso had accumulated reserve balances in Account No. 282 as of December 31, 1965, of $12,516,000 and $62,331,000,[2] respectively. Deduction of those amounts from the applicable rate base would result in annual reduction of rates in the amount of approximately $1,504,000 for Transwestern and $7,341,900[2] for El Paso. Those annual reports further indicate that in addition flow through of the benefits of liberalized depreciation utilized by those companies for tax purposes would have generated annual reductions in rates of about $3,100,000 for Transwestern and $5,100,000[2] for El Paso.

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*Reconsideration denied by order issued October 24, 1966, 36 FPC 777.

[1] This order shall not be construed as a consolidation of the proceedings hereby initiated either for hearing or decision.

Admittedly, the foregoing data present only a *prima facie* basis for determining the rates of Transwestern and El Paso were we to apply the principles of *Alabama-Tennessee* to them. It does appear, however, that the rates and charges of Transwestern and El Paso may be excessive.

Therefore, it is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that we institute these proceedings pursuant to the procedures hereinafter provided.

The Commission orders:

(A) Pursuant to the provisions of Sections 4, 5, 10, 14, 15 and 16 of the Natural Gas Act and the Rules and Regulations thereunder, Transwestern and El Paso shall show cause, if any there be, in writing and under oath, within 45 days from the date of issuance of this order, why the Commission shall not find and determine:

(i) that each is a growth company which will have an expanding gross plant for the foreseeable future, based upon their historic experience and the expansions authorized in Opinion No. 500, and that there are no exceptional circumstances in their operations which make the principles enunciated in the *Alabama-Tennessee* decision (Opinion No. 417), inapplicable to either of them;

(ii) that each will earn a fair and reasonable return on its jurisdictional operations for the reasonably foreseeable future even if they are not permitted to retain the annual tax reductions from utilization of liberalized depreciation and to earn a return on a rate base which has not been reduced by the accumulated reserves in Account 282; and

(iii) that each should be directed to file revised tariffs, acceptable to the Commission, which reduce the rates prescribed for each of them in Opinion No. 500, to that level which results from flow-through of the actual liberalized depreciation tax reductions in 1965 and the reduction of rate base by the accumulated reserve balance in Account No. 282 as of December 31, 1965; provided, however, that Transwestern and El Paso are not precluded hereby from making a proper showing that in lieu of flow through of actual liberalized depreciation tax reductions in 1965, such flow through should be on the basis of average annual tax reductions of some appropriate period comprised of 3 or 5 years.

(B) Each answer filed pursuant to this order shall specifically admit or deny each individual factual allegation contained herein and any matter not specifically controverted shall be deemed admitted and may form the basis for the entry of a final order based thereon.

(C) Without limitation of the rights of Transwestern and El Paso to submit such data and responses to paragraph (A) above, as each may deem appropriate, Transwestern and El Paso shall, within 45 days from the date of issuance of this order, file with the Commission a cost and revenue study conforming with subsection (f) of Section 154.63 of the Commission's Regulations under the Natural Gas Act (except Statements N and P). That study shall also include for each company its tax depreciation base and tax rate of depreciation segregated by the classes of properties shown on their respective tax returns for the calendar year 1965. That study shall utilize calendar year 1965, adjusted for changes in costs and revenues which are known and are measurable with reasonable accuracy at the time of filing and which will become effective within nine months after the base period. Working papers prepared in conjunction with the cost and revenue study shall be included with such study and all statements, supporting data, schedules, and working papers shall be prepared in accordance with the classifications provided in the Uniform System of Accounts. Ten sets of the cost and revenue study and seven sets of the working papers shall be served upon the Commission, and Transwestern and El Paso shall simultaneously serve copies of the cost and revenue study upon each of their respective jurisdictional customers and the State commission of each state in which it does business. The study and supporting data hereby required to be filed by El Paso shall set forth separately the costs, revenues, and operations relating to its Southern Division and its Northwest Division.

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[2] For El Paso's Southern Division alone the comparable figures are $41,643,000, $4,905,000, and $2,960,000, respectively.

(D) Notices of intervention and petitions to intervene in either of these proceedings may be filed with the Federal Power Commission, Washington, D.C. 20426, on or before September 20, 1966, in accordance with Sections 1.8 and 1.37(f) of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.37(f)).

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

COLORADO INTERSTATE GAS COMPANY, DOCKET NO. RP67-5

ORDER ACCEPTING REVISED TARIFF SHEETS FOR FILING AND PROVIDING FOR REFUNDS

(Issued August 31, 1966)

On August 1, 1966, Colorado Interstate Gas Company (CIG), filed revised tariff sheets[1] and a new service agreement dated June 15, 1966, relating to the sale of gas to Natural Gas Pipeline Company of America. The revised tariff sheets, which CIG requests be made effective as of September 1, 1966, contain rates which the company estimates will generate approximately $650,000 per year of additional revenue based upon operations for the twelve month period ending December 31, 1965.

The proposed tariff revisions reflect the operational changes recently authorized by the Commission in Docket No. CP66-316. Among these are: (1) CIG's delivery of gas from its Mocane line directly into Natural's main line transmission system at a point 39 miles east of Natural's Hooker Compressor Station where the gas had heretofore been delivered; (2) delivery of the gas at a pressure sufficiently great "to enter Buyer's lines but not greater than 680 psig" rather than at "not less than 260 psig" which was the provision for deliveries when made at Hooker Station.

The proposed service agreement extends the contract termination date from February 14, 1967, to September 1, 1986, and thus provides Natural with a long term supply delivered at high pressure into its pipeline system. By diverting this supply to the new delivery point, Natural will avoid the need for additional compression facilities at its Hooker Station. Additionally, it is proposed that the sale to Natural will be made pursuant to demand-commodity rates which are the same as those for other pipeline customers, in lieu of the existing monthly transportation charge and commodity rate.

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[1] Second Revised Sheet Nos. 19 and 20 to CIG's FPC Gas Tariff, First Revised Volume No. 1.

Upon due notice given, no protests or objections to the rate filing have been received.

Our analysis of the proposed revisions and the data submitted therewith indicates that such changes are appropriate and should be accepted for filing as hereinafter provided.

The Commission finds:

The proposed revised tariff sheets and the rates provided therein and the aforementioned Service Agreement dated June 15, 1966, are proper and in the public interest in carrying out the provisions of the Natural Gas Act, and should be permitted to be effective subject to the provisions of this order.

The Commission orders:

(A) Second Revised Sheet Nos. 19 and 20 to CIG's FPC Gas Tariff, First Revised Volume No. 1, and the Service Agreement with Natural dated June 15, 1966, are accepted for filing to be effective as of September 1, 1966.

(B) In the event CIG receives refunds from its suppliers related to gas purchases made on and after August 31, 1966, it shall flow through the appropriate share of such refunds (and any interest thereon paid by the supplier) to its jurisdictional customers. The appropriate share of such refunds attributable to jurisdictional customers shall be determined by the ratio of jurisdictional sales to total system sales, exclusive of short-term and Amarillo "B" sales, for the most recent 12-month period. The pro rata share of individual jurisdictional customers shall be based on actual sales to such customers during the refund period. The refunds, as determined above, shall be flowed through by CIG at least once a year by October 31 of each year or as soon as the jurisdictional portion of such refunds aggregates $250,000.

(C) This order is without prejudice to any findings or orders which have been made or may hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, the Commission staff, CIG, or any other person affected by this order in any proceeding now pending, or in any proceeding hereafter instituted by or against CIG or any other persons or parties affected by this order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

LONE STAR GAS COMPANY, DOCKET NO. CP67-1

FINDINGS AND ORDER AFTER STATUTORY HEARING PERMITTING AND APPROVING ABANDONMENT

(Issued August 31, 1966)

On July 1, 1966, Lone Star Gas Company (Applicant), filed in Docket No. CP67-1 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon the operation of certain natural gas facilities for the transportation of natural gas in interstate commerce, all as more fully set forth in the application.

Applicant states that the facilities proposed for abandonment are various lateral supply pipelines and related facilities extending from its existing pipeline system to a single well or to a single point in the area of production and are no longer needed or required to transport gas into Applicant's system because the available supplies of natural gas in these areas have become depleted to the extent that the continuation of service therefrom is unwarranted and uneconomical.

Applicant seeks permission and approval to abandon the operation of the following pipelines and appurtenant facilities:

(1) 3,337 feet of 4-inch Line FX–397–T by removal and salvage;

(2) 81 feet of 3-inch Line FX–399–T by removal and salvage;

(3) 1,490 feet of 4-inch Line FX–422–T by lease to Twin Gas Company for use as a gathering facility;

(4) 343 feet of 4-inch Line FX–431–T by removal and salvage;

(5) 8,842 feet of 6-inch Line GM, 7,400 feet of which by removal and salvage and 1,422 feet of which by lease to Twin Gas Company for use as a gathering facility;

(6) 6,683 feet of 6-inch Line FX–424–T by removal and salvage;

(7) 319 feet of 3-inch Line FX–483–T by removal and salvage;

(8) 3,014 feet of 4-inch Line FX–471–T by removal and salvage;

(9) 22 feet of 2-inch Line FX–498–T by removal and salvage;

(10) 433 feet of 2-inch Line CT–858–T by removal and salvage;

(11) 7,669 feet of 6-inch Line TG by removal and salvage, and

(12) 5,975 feet of 6-inch Line TJ by removal and salvage.

The proposed abandonments will not result in the abandonment or any diminution of natural gas service to any city, town, community or customer or lessen the service presently being rendered by Applicant.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on August 25, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorizations sought and upon consideration of the record,

The Commission finds:

(1) Applicant, Lone Star Gas Company a Texas corporation having its principal place of business in Dallas, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of April 11, 1944, in Docket No. G–442 (4 FPC 565).

(2) The facilities proposed to be abandoned, as hereinbefore described and as more fully described in the application herein, are used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and such abandonment is subject to the requirements of Subsection (b) of Section 7 of the Natural Gas Act.

(3) The proposed abandonment of the aforesaid facilities is permitted by the public convenience and necessity and approval thereof should be granted as hereinafter ordered.

The Commission orders:

(A) Permission for and approval of the abandonment of the facilities hereinbefore described, as more fully described in the application in this proceeding, are granted to Applicant.

(B) Applicant shall advise the Commission of the date of abandonment of the facilities as authorized in paragraph (A) above within 10 days of such abandonment.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

CITY OF PAWNEE ROCK, KANSAS AND NATURAL GAS PIPELINE COMPANY OF AMERICA, DOCKET NO. CP66-325

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued August 31, 1966)

On April 13, 1966, the City of Pawnee Rock, Kansas (Applicant), filed in Docket No. CP66-325 an application, as amended on August 2, 1966, pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Natural Gas Pipeline Company of America (Respondent) to establish physical connection of its transportation facilities with the facilities proposed to be constructed by Applicant and to sell and deliver to Applicant volumes of natural gas for resale and distribution in Applicant, all as more fully set forth in the application.

Applicant is located in Barton County in Western Kansas, approximately 14 miles southwest of Great Bend, Kansas, and 6 miles southeast of Respondent's main transmission line in Kansas. Applicant operates an existing municipal gas distribution system.

Applicant proposes to construct a 4-inch lateral transmission pipeline approximately six miles in length extending northwest from its border to an interconnection with Respondent's main transmission pipeline in Kansas.

The total estimated volumes of natural gas necessary to meet Applicant's annual and peak day requirements for the initial three-year period of proposed operations are as follows:

	First year	Second year	Third year
Annual (Mcf)	34,500	36,950	38,920
Peak day (Mcf)	286	306	324

The total estimated cost of Applicant's proposed facilities is $82,201, which cost will be financed through the issuance of Gas System Improvement Bonds.

After due notice, the State Corporation Commission of the State of Kansas filed its Notice of Intervention on May 13, 1966, but withdrew said intervention by a filing of its Withdrawal of Notice of Intervention on May 31, 1966. No other notice of intervention, petition to intervene or protest to the granting of the application has been filed.

The Commission finds:

(1) Respondent, Natural Gas Pipeline Company of America, a Delaware corporation having its principal place of business in Chicago, Illinois, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of October 13, 1942, in Docket No. G-235 (3 FPC 830).

(2) Applicant, City of Pawnee Rock, Kansas, is a municipal corporation incorporated under the laws of the State of Kansas and is legally empowered to construct and operate natural gas facilities and to sell and distribute natural gas in said city.

(3) It is necessary and desirable in the public interest that Respondent be directed to establish physical connection of its natural gas transportation

system with the proposed facilities of Applicant and to sell and deliver up to 324 Mcf of natural gas per day to Applicant, as set forth in the application and as hereinafter ordered and conditioned.

(4) This order should be conditioned upon Applicant being prepared to receive natural gas from Respondent, as proposed, within one year from the date on which this order issues.

(5) The requirement that Respondent serve Applicant, as requested, will not place an undue burden upon Respondent nor impair its ability to render adequate service to existing customers.

The Commission orders:

(A) Respondent is directed to establish physical connection of its natural gas transmission system with the facilities to be constructed by Applicant and to sell and deliver up to 324 Mcf of natural gas per day to Applicant, all as hereinbefore described and as more fully described in the application.

(B) Applicant shall be prepared to receive natural gas from Respondent within one year from the date of this order.

(C) Respondent shall notify the Commission of the commencement of service within 10 days thereof.

(D) Respondent shall execute and file with the Commission a service agreement with Applicant in accordance with the Commission's Regulations.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

PLATEAU NATURAL GAS COMPANY,[1] DOCKET NO. CP65–418

ORDER AMENDING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 31, 1966)

On June 6, 1966, Plateau Natural Gas Company (Petitioner) filed in Docket No. CP65–418 a petition to amend the order issued to Kansas-Colorado Utilities, Inc. (K–C), in said docket on August 16, 1965, 34 FPC 515, requesting that the authorization to construct and operate 16 natural gas meter stations in Dallam and Hartley Counties, Texas, and Union County, New Mexico, be deleted therefrom, all as more fully set forth in the petition to amend.

The order issued in the instant docket on August 16, 1965, authorized the sale for resale of natural gas by K–C to Petitioner, necessitating the installation of the aforementioned 16 meter stations at an estimated cost of $29,480.

Pursuant to the order of the Commission issued in Docket No. CP66–154 on January 25, 1966, 35 FPC 153, K–C has merged with Petitioner and as a result K–C is no longer selling gas in interstate commerce to Petitioner. Consequently, there is no present need for the 16 meter stations and accordingly Petitioner requests that authorization therefor be deleted from the order issued in the instant docket.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's order in Docket No. CP65–418 issued on August 16, 1965, be amended as hereinafter ordered.

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[1] Successor to Kansas-Colorado Utilities, Inc.

The Commission orders:

(A) The Commission's order in Docket No. CP65–418 issued on August 16, 1965, is amended by deleting therefrom the authorization granted to Kansas-Colorado Utilities Inc., to construct and operate 16 meter stations in Dallam and Hartley Counties, Texas and Union County, New Mexico, and to sell natural gas through said facilities.

(B) In all other respects said order shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

UNITED GAS PIPE LINE COMPANY, DOCKET NO. CP66–415

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 31, 1966)

On June 15, 1966, United Gas Pipe Line Company (Applicant), filed in Docket No. CP66–415 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application.

Applicant proposes to construct and operate the following facilities: approximately 2.2 miles of 2-inch pipeline beginning at approximately Milepost 136.44 on Applicant's 30-inch Offshore to Kosciusko main pipeline and extending in a generally western direction to end at the sales meter station at a point in Section 51, Township 2 South Range 7 East, Tangipahoa Parish, Louisiana.

The facilities are proposed in order to provide for the transportation and delivery of natural gas to Kentwood Brick & Tile Manufacturing Company, Inc., Tangipahoa Parish, Louisiana, to meet the fuel requirements of Kentwood's brick and tile plant to be located near Kentwood, Tangipahoa Parish, Louisiana. The estimated third year peak day requirement of the plant is 704 Mcf of natural gas.

The total estimated cost of Applicant's proposed construction is $45,823, which cost will be financed out of current working funds.

The average rate for the estimated 206,000 Mcf of annual deliveries will be 30.08 cents per Mcf.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on August 25, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits submitted in support of the authorization, and upon consideration of the record,

The Commission finds:

(1) Applicant, United Gas Pipe Line Company, a Delaware corporation having its principal place of business in Shreveport, Louisiana, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of November 10, 1942, in Docket No. G–232 (3 FPC 863).

(2) The proposed construction and operation of facilities and the transportation and delivery of natural gas by Applicant to Kentwood Brick & Tile Manufacturing Company, Inc., as hereinbefore described, and as more fully

described in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed construction and operation of facilities and the transportation and delivery of natural gas are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to the Applicant in this proceeding, authorizing the construction and operation of facilities and the transportation and delivery of up to 704 Mcf per day of natural gas to Kentwood Brick & Tile Company, Inc. of Tangipahoa Parish, Louisiana, as described herein and as more fully described in the application and exhibits in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The certificate issued shall not entitle the industrial customers to whom firm deliveries are authorized herein to any priorities or rights to additional gas for meeting any future increases in their requirements at the expense of firm resale customers desiring to acquire additional gas to meet any future increases in their requirements.

(D) The facilities authorized shall be constructed and ready for operation within six months of the date of this order as required by Section 157.20(b) of the Regulations.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

UNITED NATURAL GAS COMPANY AND IROQUOIS GAS CORPORATION, DOCKET NO. CP66-349; TENNESSEE GAS PIPELINE COMPANY, A DIVISION OF TENNECO INC., DOCKET NO. CP66-420

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

(Issued August 31, 1966)

On May 2, 1966, United Natural Gas Company (United) and Iroquois Gas Corporation (Iroquois) filed in Docket No. CP66-349 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities in order to meet the increasing market demands on the Iroquois dis-

tribution system, particularly in the Buffalo-Niagara Falls distribution area, all as more fully set forth in the application in said docket.

Specifically, United and Iroquois propose to construct and operate the following facilities:

(a) United to construct and operate 8 miles of 24-inch pipeline from a point near its Ellisburg Compressor Station to the Pennsylvania State line in Potter County, Pennsylvania, together with a metering and regulating tie-in station at the end of said line, and

(b) Iroquois to construct and operate 75 miles of 24-inch pipeline from the terminus of United's proposed facilities to a point in Erie County, New York, near the City of Buffalo.

United's sales to Iroquois in the third year of operation of the subject proposals are estimated to be 221,000 Mcf on a peak day and 43,000 MMcf annually. Since it is not contemplated that operation of the proposed facilities will commence before November 1, 1967, Iroquois, in order to meet its 1966–67 winter peak day requirement of 173,000 Mcf, is negotiating a transportation arrangement with Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee). Under such arrangement Tennessee would transport for the account of Iroquois a maximum daily quantity of 70,000 Mcf and a maximum annual quantity of 5,300,000 Mcf of gas purchased by Iroquois from United.

The total estimated cost of the United-Iroquois facilities is $8,172,000, which cost would be financed in part from available company funds and in part from funds to be obtained by issuing to United-Iroquois' parent corporation, Natural Fuel Gas Company, notes or stock, or both, at face or par value.

On June 20, 1966, Tennessee filed in Docket No. CP66–420 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the above described transportation service for Iroquois for a period of one year (1967), all as more fully set forth in the application in said docket.

Tennessee proposes to receive, transport and deliver for Iroquois during the months of January, February, March, November and December of 1967, up to a maximum daily quantity of 70,000 Mcf and a maximum annual quantity of 5,300,000 Mcf. Tennessee states that it is able to render the proposed service because of unused peak day capacity on its Hebron-Hamburg Line and its Niagara Spur. Tennessee's Hebron-Hamburg Line extends from its Compressor Station No. 313 in Potter County, Pennsylvania, to its Compressor Station No. 229 in Erie County, New York. Gas will be transported through this line, a short section of Tennessee's main line and then through the Niagara Spur which crosses a section of Iroquois' distribution system. Tennessee states that it has interconnections with United in the storage area in Pennsylvania through which it can receive gas for the account of Iroquois.

Tennessee will require no additional facilities to render the proposed transportation service.

On June 8, 1966, Tennessee filed a petition to intervene in Docket No. CP66–349 in the event that a formal hearing is held in said docket.

After due notice, no other petition to intervene, notice of intervention or protest to the granting of the applications has been filed.

At a hearing held on August 25, 1966, the Commission on its own motion received and made a part of the record in these proceedings all evidence, including the applications and exhibits, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, United Natural Gas Company, a Pennsylvania corporation having its principal place of business in Oil City, Pennsylvania, is a "natural-

gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of March 30, 1943, in Docket No. G–328 (3 FPC 959).

(2) Applicant, Iroquois Gas Corporation, a New York corporation having its principal place of business in Buffalo, New York, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of March 23, 1943, in Docket No. G–384 (3 FPC 951).

(3) Applicant, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., a Delaware corporation having its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of July 12, 1947, in Docket No. G–910 (6 FPC 777).

(4) The facilities hereinbefore described, as more fully described in the application in Docket No. CP66–349, are to be used in the transportation and sale of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof by United and Iroquois are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(5) The proposed transportation and delivery of natural gas in interstate commerce hereinbefore described, as more fully described in the application in Docket No. CP66–420, are subject to the jurisdiction of the Commission and such transportation and delivery by Tennessee are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(6) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(7) The construction and operation of the proposed facilities by United and Iroquois and the proposed transportation and delivery of natural gas by Tennessee are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(8) Public convenience and necessity require that the certificates issued hereinafter and the rights granted thereunder be conditioned upon Applicants' compliance with all applicable Commission Regulations under the Natural Gas Act and, with respect to United and Iroquois, particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations, and, with respect to Tennessee, particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(3) and (e) of said Section 157.20.

(9) In accordance with the Commission's Regulations under the Natural Gas Act, Tennessee should make appropriate rate filings with the Commission covering the proposed transportation service hereinafter authorized.

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Applicants, United Natural Gas Company and Iroquois Gas Corporation, to construct and operate the proposed facilities as hereinbefore described, all as more fully described in the application in Docket No. CP66–349, upon the terms and conditions of this order.

(B) A certificate of public convenience and necessity is issued authorizing Applicant, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., to transport and deliver natural gas as hereinbefore described, all as more fully described in the application in Docket No. CP66–420, upon the terms and conditions of this order.

(C) The certificates issued by paragraphs (A) and (B) above and the rights granted thereunder are conditioned upon Applicants' compliance with all applicable Commission Regulations under the Natural Gas Act and, with respect to United and Iroquois, particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations, and, with respect to Tennessee, particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(3) and (e) of said Section 157.20.

(D) The facilities authorized in paragraph (A) above shall be constructed and placed in actual operation, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act by January 1, 1968.

(E) The transportation and delivery of natural gas authorized in paragraph (B) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act by January 1, 1967.

(F) In accordance with the Commission's Regulations under the Natural Gas Act, Tennessee shall make appropriate rate filings with the Commission covering the proposed transportation service authorized in paragraph (B) above.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

WEST OHIO GAS COMPANY AND MICHIGAN WISCONSIN PIPE LINE COMPANY, DOCKET NO. CP66-383

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued August 31, 1966)

On May 20, 1966, West Ohio Gas Company (Applicant), filed in Docket No. CP66-383 an application pursuant to Section 7(a) of the Natural Gas Act for an order directing Michigan Wisconsin Pipe Line Company (Respondent) to extend its gas transportation facilities, to make physical connection with Applicant's proposed distribution facilities, and to sell natural gas to Applicant for resale and distribution in the Village of Convoy, Ohio, and the rural areas adjacent thereto, all as more fully set forth in the application.

Applicant states that Respondent's transmission pipeline extends within 1.75 miles of the village limits of Convoy. Deliveries to Applicant would be made by Respondent at a new delivery point located approximately 0.5 mile due west of the Village of Convoy in Van Wert County, Ohio. Applicant does not presently receive natural gas from Respondent at any other delivery points. Applicant proposes that Respondent construct approximately 1.25 miles of the required lateral pipeline pursuant to Respondent's "10-cent" formula.

Applicant states that Convoy had a 1960 population of 976 and there are 326 residences and 43 commercial establishments now located in Convoy and 13 residences along the route of the transmission pipeline. The estimated natural gas requirements during the first three years of proposed operations are as follows:

	First year	Second year	Third year
Annual (Mcf)	27,302	32,496	39,383
Peak day (Mcf)	268	320	392

Applicant proposes that Respondent deliver the natural gas pursuant to Respondent's SGS-1 rate schedule.

The estimated cost of the facilities to be constructed by Applicant is $103,505, which will be financed from internally generated funds.

Applicant has obtained the necessary franchise to supply natural gas in said community and will obtain authorization from the proper county and township regulatory authorities for those facilities installed outside of the corporate limits of Convoy.

On June 27, 1966, Michigan Wisconsin filed an answer to the application and stated therein it had no objection to the entry of an order requiring it to extend its facilities, establish connection and provide the requested service.

Due notice of the filing of the application and opportunity for hearing thereon has been given by publication in the Federal Register on June 7, 1966, (31 F.R. 8034). No protest, petition to intervene or request for hearing has been filed in this proceeding.

The Commission finds:

(1) Michigan Wisconsin Pipe Line Company, a Delaware corporation having its principal place of business in Detroit, Michigan, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order dated November 30, 1946, in Docket No. G-669.

(2) Applicant, is legally authorized to engage in the local distribution of natural gas to the public within the meaning of Section 7(a) of the Natural Gas Act.

(3) It is necessary and desirable in the public interest to direct Michigan Wisconsin to sell and deliver up to 392 Mcf of natural gas per day to Applicant, under a service agreement to be executed by Applicant with Michigan Wisconsin in accordance with the Commission's Regulations, for distribution and resale in the Village of Convoy and adjacent rural areas.

(4) Applicant should be prepared to receive natural gas from Michigan Wisconsin for distribution in the named community, and rural area, within one year from the date of the issuance of this order.

(5) The requirement that Respondent serve Applicant as hereinafter ordered will not impair Respondent's ability to render adequate service to its existing customers.

The Commission orders:

(A) Michigan Wisconsin Pipe Line Company is directed to establish physical connection of its facilities with the facilities proposed to be constructed and operated by Applicant, as herein described and to sell and deliver to Applicant up to 392 Mcf of natural gas per day for distribution and resale as hereinbefore described in the Village of Convoy and rural areas adjacent thereto under a service agreement to be executed by Applicant with Michigan Wisconsin and filed by Michigan Wisconsin in accordance with the Commission's Regulations. Such service shall be rendered pursuant to Michigan Wisconsin's presently filed appropriate rate schedule.

(B) Michigan Wisconsin shall report to the Commission the date of commencement of service to Applicant within 10 days after such service begins.

(C) Applicant shall procure appropriate authorization from county, and/or township regulatory authorities for facilities outside the corporate limits of Convoy and be prepared to receive service as directed herein within one year from the issuance of this order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

PACIFIC POWER & LIGHT COMPANY, PROJECT NOS. 421 AND 1136

ORDER ACCEPTING SURRENDER OF LICENSES (TRANSMISSION LINE)

(Issued September 1, 1966)

On May 31, 1966, Pacific Power & Light Company, licensee for transmission line Project Nos. 421 and 1136, filed applications for surrender of the licenses for the projects located in the State of Oregon and affecting lands of the United States within the Winema (Project No. 421) and within the Winema and Fremont (Project No. 1136) National Forests.

The applications for surrender are in compliance with the Commission's June 16, 1961 order, 25 FPC 1154 which, among other things, provided for the filing of the applications for surrender, subject to first obtaining authority from the appropriate Government agency for the continued occupancy by the lines of the Government lands involved.

Forest Service Special Use Permits (copies of which are on file with the Commission) were issued for the two sections of Project No. 421 within the Winema National Forest, effective February 1, 1963, and January 1, 1965, respectively; for the section of Project No. 1136 within the Winema National Forest, effective February 15, 1963, and for the section of the same line within the Fremont National Forest, effective January 1, 1965. Inasmuch as the annual charges under the Commission licenses for the lines have been paid through the calendar year 1965, we are making our approval of the surrenders effective as of December 31, 1965.

Public notice of the applications was waived in the licenses.

The Commission finds:

(1) The aforesaid transmission lines are not primary lines nor parts of a "project" as defined in Section 3(11) of the Federal Power Act.

(2) Acceptance of surrender of the licenses for the projects is appropriate.

The Commission orders:

Surrender of the licenses for transmission line Project Nos. 421 and 1136 is hereby accepted, effective as of December 31, 1965.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

MICHIGAN WISCONSIN PIPE LINE COMPANY, DOCKET NO. CP66-208

ORDER FURTHER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued September 2, 1966)

On June 2 and July 5, 1966, Michigan Wisconsin Pipe Line Company (Petitioner), filed in Docket No. CP66-208 petitions to amend the order of the Commission issued in said docket on May 24, 1966, 35 FPC 777, which order authorized Petitioner, *inter alia*, to sell and deliver additional natural gas to certain existing customers. By the instant filings, Petitioner requests that the order issued in the instant docket be amended so as to authorize deliveries of revised volumes of gas to fourteen (14) (inclusive of Wapello) customers under various rate schedules and that the Commission accept, concurrently, the corresponding service agreements for filing effective September 1, 1966, all as more fully set forth in the petitions to amend.

Petitioner states that since the preparation of the application in the instant docket its customers have reviewed their requirements in the light of their actual residential, commercial and industrial growth and operations experienced during this past winter and as a result of such review, certain of its customers have requested a modification in their Maximum Daily Quantity entitlement of gas and/or a change in rate schedule under which service will be rendered, as shown in Appendix A hereto.

The petitions to amend filed June 2, 1966 and July 5, 1966 state that the requested MDQ modifications result in a net aggregate increase of 27,370 Mcf of gas per day which can be served from a portion of Petitioner's unallocated volume of 52,000 Mcf of gas per day.

The requested modifications in MDQ, together with the requested changes in rate schedule under which the service will be rendered, are set forth in Appendix A hereto.

Petitioner requests that the Commission modify its order of May 24, 1966, so as to authorize deliveries to the above named customers of the revised volumes and under the rate schedules set forth in Appendix A where changes are indicated and, concurrently, accept the accompanying service agreements for filing effective September 1, 1966—the beginning of the contract year under Michigan Wisconsin's tariff.

Due notice of the filing of the application to amend and opportunity for hearing thereon have been given by publication in the Federal Register on July 16, 1966, (31 F.R. 9696). No protest or petition to intervene has been filed in the proceeding concerning this amendment.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act, and the public convenience and necessity require (1) that the Commission's order issued May 24, 1966, in Docket No. CP66-208 be amended as hereinafter ordered, and (2) the executed service agreements filed with the Commission on June 2, 1966 and July 5, 1966 be accepted for filing, effective on September 1, 1966.

The Commission orders:

(A) The Commission's order, issued May 24, 1966, in Docket No. CP66-208 is amended by authorizing Michigan Wisconsin to change maximum daily quantities to conform with volumes designated in revised nominations as set forth herein in Appendix A, all as hereinbefore described and as set forth in the subject petition to amend.

(B) The service agreements filed with the Commission on June 2, 1966 and July 5, 1966 be accepted for filing, effective on September 1, 1966.

(C) In all other respects said order shall remain in full force and effect.

APPENDIX A

MICHIGAN WISCONSIN PIPE LINE COMPANY

PRESENT AND PROPOSED MAXIMUM DAILY QUANTITIES

Company	Schedule	Maximum Daily Quantity—Mcf @14.73 psia		
		Present	Proposed	Increase or (Decrease)
Allerton Gas Company	ACQ-1	625	680	55
City of Bloomfield, Iowa	ACQ-1	1,550	1,600	50
Keokuk Gas Service Company	ACQ-1	10,900	11,500	600
Michigan Gas and Electric Company	ACQ-1	57,500	59,750	2,250
Michigan Gas Utilities Company	ACQ-1	68,000	75,000	7,000
Town of Morning Sun, Iowa	SGS-1	490	585	96
Town of Winfield, Iowa	SGS-1	613	800	187
Wisconsin Natural Gas Company	ACQ-1	178,000	188,000	10,000
Wisconsin Public Service Corp.	ACQ-1	157,000	161,000	4,000
City of Bethany, Missouri	SGS-1	1,539	----------	(49)
	ACQ-1	----------	1,490	----------
Wisconsin Gas Company	ACQ-1	460,000	454,000	3,000
	MDQ-1	----------	9,000	----------
Wisconsin Fuel and Light Company	ACQ-1	44,300	40,900	----------
	MDQ-1	----------	3,400	----------
Wisconsin Michigan Power Company	ACQ-1	44,000	42,000	----------
	MDQ-1	----------	2,000	----------
Wapello Light and Gas Company	MDQ-1	1,019	1,200	181

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

NORTHERN UTILITIES, INC., DOCKET NO. CP66-406

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued September 2, 1966)

On June 8, 1966, Northern Utilities, Inc. (Applicant) filed in Docket No. CP66-406 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and the replacement of certain existing facilities, all as more fully set forth in the application.

Specifically, Applicant seeks authority for the construction, operation and replacement of the following facilities:

(1) The construction of approximately 16 miles of 8-inch pipeline from a point near Atlantic-Richfield Company's (formerly Atlantic Refining Company) Riverton Dome Gasoline Plant in Section 36, Township 1 South, Range 4 East of Wind River Meridian, southeasterly to connect with Applicant's Sand Draw Field, all in Fremont County, Wyoming, to replace the present pipeline between said two points, consisting of approximately 15 miles of 6-inch pipeline, approximately 3 miles of 6-inch loop pipeline, and approximately 3 miles of 4-inch loop pipeline; and

(2) The construction of approximately 1.30 miles of 16-inch pipeline loop, generally parallel to its present 12-inch pipeline, extending from a metering point near the Kansas-Nebraska Natural Gas Company, Inc. (Kansas-Nebraska) Compressor Station located east of Casper, Wyoming, to a point on the north side of the North Platte River, including a new and separate crossing of said river, all in Natrona County, Wyoming.

The instant proposal is in accordance with paragraph (c) of Section 1 of the transportation agreement between Applicant and Kansas-Nebraska dated September 14, 1965, which agreement provides for the expansion of Applicant's facilities in order to meet increased transportation requirements of Kansas-Nebraska resulting from the purchase of additional volumes of natural gas by Kansas-Nebraska from its sources of supply in Fremont or Natrona County, Wyoming.

The proposed construction will increase the capacity of Applicant's transmission facilities extending from the Riverton Dome Field to the Sand Draw Field from approximately 9,400 Mcf of gas per day to approximately 35,000 Mcf of gas per day and will enable Applicant to transport an additional 10,000 Mcf per day for the account of Kansas-Nebraska. The total estimated volume of natural gas to be transported by Applicant for the account of Kansas-Nebraska during the year 1967 is 20,525,000 Mcf, an increase of approximately 5,000,000 Mcf over the volume transported during the year 1965.

The total estimated cost of Applicant's proposed construction is $305,594, which cost will be financed from cash on hand and from funds generated from operations.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on September 1, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Northern Utilities, Inc., a Wyoming corporation having its principal place of business in Casper, Wyoming, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of December 20, 1962, in Docket No. CP63-74 (28 FPC 1082).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, Northern Utilities, Inc., authorizing the construction and operation of facilities as hereinbefore described and as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The facilities hereby authorized shall be completed and placed in actual operation, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, one year from the date of this order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

PACIFIC GAS AND ELECTRIC COMPANY, PROJECT NO. 78; SACRAMENTO MUNICIPAL UTILITY DISTRICT AND PACIFIC GAS AND ELECTRIC COMPANY, PROJECT NO. 2155

ORDER APPROVING TRANSFER OF INTEREST IN LICENSE AND ACCEPTING SURRENDER OF LICENSE

(Issued September 2, 1966)

On August 28, 1962 (28 FPC 375) the Commission issued a license jointly to Sacramento Municipal Utility District (District) and Pacific Gas and Electric Company (PG&E) for proposed Chili Bar dam, reservoir and powerhouse on the South Fork of the American River in Eldorado County, California, designated as Project No. 2155. The joint license was issued pursuant to joint application therefor filed by District and PG&E following the execution of an agreement between the two, dated January 5, 1962, which, as the license recites, provided for joint development of the stretch of the river involved. In essence, the agreement provided for the filing of the joint application for license for the Chili Bar Project for a period coincident with that of District's license for Slab Creek Dam and Reservoir, Project No. 2101, and authorized construction of Chili Bar by District and its operation by District during the initial years. Under the agreement, District would have the right to operate Chili Bar for its own benefit until construction or operation of District's Project No. 2101 deprived PG&E's licensed major Project No. 78 of its water supply, at which time (but not later than December 31, 1970) District would convey its interest in Chili Bar and transfer its Commission license therefor to PG&E. The latter would thereupon surrender its license for Project No. 78 and take possession of and operate and maintain the Chili Bar Project. The Commission's license for Chili Bar Project No. 2155, which provided that PG&E should surrender its license for Project No. 78 upon taking possession of the Chile Bar Project, in effect provided for the termination of the license for Project No. 78 upon PG&E's taking possession of Chili Bar.

By way of compliance with the terms of the Commission's joint license for Chili Bar Project No. 2155: (1) PG&E, on August 23, 1965, filed application for surrender of its license for Project No. 78, located on the South Fork of American River in Eldorado and Alpine Counties, California, and affecting lands of the United States within Eldorado National Forest and other lands of the United States; and (2) PG&E and District, on September 2, 1965, filed application for transfer of District's interest in the license for Chili Bar Project No. 2155 to PG&E.

According to the filings by District and PG&E, heavy floods in December of 1964 destroyed a considerable portion of the flume conveying water to Project No. 78 and replacement of the destroyed project works was not considered economically feasible during the period of Slab Creek Dam construction. The flood damage to Project No. 78 precipitated District and PG&E: (1) to enter into an agreement dated March 8, 1965, (a copy of which is on file with the Commission) under which District transferred the project works comprising Chili Bar Project No. 2155 to PG&E, effective as of noon March 22, 1965, and (2) to file the applications for transfer and surrender in which we are asked to make our approval of the transfer of District's interest in the license for Chili Bar Project No. 2155 to PG&E, and our acceptance of PG&E's surrender of license for Project No. 78 effective as of March 22, 1965.

The Chief, Forest Service, has advised that the National Forest lands occupied by Project No. 78 have been restored to a condition satisfactory to the Service, and the Department of the Interior has advised that the project structures of Project No. 78 remaining on public lands of the United States will not conflict with the Bureau of Land Management's use of the lands.

Annual charges under the license for Project No. 78 have been paid through December 31, 1965.

The Commission finds:

(1) Acceptance of surrender of PG&E's license for Project No. 78 is appropriate.

(2) The transfer of District's interest in the license for Project No. 2155 to PG&E will not be inconsistent with the public interest.

The Commission orders:

(A) Surrender of the license for Pacific Gas and Electric Company's Project No. 78 is hereby accepted, effective as of March 22, 1965.

(B) The transfer of the interest of Sacramento Municipal Utility District in the license for Chili Bar Project No. 2155 to PG&E is hereby approved, effective as of March 22, 1965, leaving Pacific Gas and Electric Company as the sole owner and licensee of record for Project No. 2155.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

TRANSWESTERN PIPELINE COMPANY, ET AL., DOCKET NO. CP63-204, ET AL.

ORDER REQUIRING FILING OF STATEMENTS

(Issued September 2, 1966)

On July 19, 1966, the Commission issued Opinion No. 500, 36 FPC 176, in which it granted certificates of public convenience and necessity to El Paso Natural Gas Company and Transwestern Pipeline Company for expansion of service in California and denied a certificate of public convenience and necessity to Gulf Pacific Pipeline Company (Gulf Pacific). Gulf Pacific had proposed to transport up to 865,000 Mcf of natural gas daily to Southern California Edison Company (Edison) and the Department of Water and Power of the City of Los Angeles (Department) from the Katy and Pledger Fields in Texas. The utilities would purchase the gas from Humble Oil & Refining Company (Humble) and other producers pursuant to 20 year contracts.

It has come to the Commission's attention that some of the producers including Humble may have filed notices of termination of the contracts to sell to the utilities.[1] In view thereof, there is a distinct question whether there would be a gas supply available to Gulf Pacific to render the proposed service to the utilities.

Applications for rehearing having been filed *inter alia* by Gulf Pacific, Edison and Department (but not Humble), further Commission action in these proceedings is necessary. It would appear appropriate, however, that there be an indication whether some or all of the issues propounded by the applicants for rehearing herein have been rendered moot by the purported withdrawal of the Gulf Pacific-Edison and Department gas supply. The granting of rehearing to an applicant when the basic gas supply upon which its project is founded has been lost would be an exercise in futility by this Commission. Accordingly, it would appear advisable that these parties be required to file statements showing why the several issues raised in their applications for rehearing have not been rendered moot by such gas supply failure, and, consequently, why these proceedings should not be summarily terminated.

The Commission orders:

(1) Gulf Pacific and the intervenor/applicants for rehearing, Edison and Department, shall submit on or before September 13, 1966, copies of all notices of termination of gas supply which they may have received from those producers who were under contract to sell gas from the Katy and Pledger Fields, Texas, to Edison and the Department.

(2) In view of the possible cancellation of the gas supply available to the Gulf Pacific project, Gulf Pacific Pipeline Company, Edison, Department and

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[1] In its Application for Rehearing, Gulf Pacific Pipeline Company noted that "the Commission's issuance of Opinion No. 500 has caused certain producers to file notices of termination."

all other parties filing applications for rehearing, shall, and the other interested parties to this proceeding may, submit statements to the Commission on or before September 16, 1966, showing whether some or all of the issues propounded by the applicants for rehearing herein have been rendered moot by the purported withdrawal of the Gulf Pacific-Edison and Department gas supply, and why these proceedings should not be summarily terminated.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

ARKANSAS LOUISIANA GAS COMPANY, DOCKET NO. CP66-421

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued September 6, 1966)

On June 20, 1966, Arkansas Louisiana Gas Company (Applicant), filed in Docket No. CP66-421 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and the transportation and delivery of natural gas to the Western Electric Company plant, all as more fully set forth in the application.

Applicant seeks authorization to construct and operate a new lateral pipeline extending from its existing transmission facilities (Line N) to a new plant constructed by Western Electric Company located near Shreveport, Caddo Parish, Louisiana, which will use on an interruptible basis up to 2,880 Mcf of gas per day and approximately 400,000 Mcf of gas per year. The proposed facilities consist of approximately 26,400 feet of 8⅝-inch pipeline, and necessary regulating and metering equipment.

The total estimated cost of Applicant's proposed construction is $153,140, which will be financed from cash on hand.

The estimated average rate to be charged for the gas delivered will be 26.2¢ per Mcf.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on September 1, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, and exhibits submitted in support of the authorization, and upon consideration of the record,

The Commission finds:

(1) Applicant, Arkansas Louisiana Gas Company, a Delaware corporation having its principal place of business in Shreveport, Louisiana, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order issued January 26, 1943, in Docket No. G-252 (3 FPC 910).

(2) The proposed construction and operation of facilities and transportation and delivery of natural gas as hereinbefore described, and as more fully described in the application, and exhibits in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed construction and operation of facilities, transportation and delivery are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to the Applicant in this proceeding, authorizing the construction and operation of facilities and transportation and delivery of up to 2,880 Mcf daily of natural gas as more fully described in the application and exhibits in this proceeding, subject to the jurisdiction of the Commission, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are hereby conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The facilities hereby authorized shall be constructed and placed in actual operation and transportation of natural gas authorized in paragraph (A) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within 3 months from the date on which this order issues.

(D) The certificate issued hereby is granted on the express condition that (1) the facilities authorized hereby shall not be used to transport more than 2,880 Mcf daily of interruptible gas to Western Electric Company and (2) the interruptible service authorized herein shall be subject to any curtailment or interruption required to meet existing or future contracted maximum delivery obligations of Applicant for firm service to its customers.

(E) Applicant shall within 60 days after the issuance of this order file copies of the contract with Western Electric Company as required by Section 155.1 of Commission's Rules and Regulations and thereafter file an annual report in compliance with Section 155.1(c) thereof.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

CONCORD NATURAL GAS CORPORATION AND TENNESSEE GAS PIPELINE COMPANY, A DIVISION OF TENNECO INC., DOCKET NO. CP67-14

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued September 6, 1966)

On July 21, 1966, Concord Natural Gas Corporation (Applicant) filed in Docket No. CP67-14 an application pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Respondent) to establish physical connection of its natural gas transmission facilities with the facilities proposed to be constructed by Applicant, and to sell and deliver natural gas to Applicant for distribution and resale in the Village of Suncook, Merrimack County, New Hampshire, all as more fully set forth in the application.

Applicant proposes to construct 2,400 feet of 6-inch transmission pipeline extending in an easterly direction from a meter station on Respondent's transmission line in Merrimack County, New Hampshire, to the distribution system to be constructed in the Village of Suncook.

The total estimated volumes of natural gas necessary to meet Applicant's annual and peak day requirements for the initial three-year period of proposed operations are as follows:

	First year	Second year	Third year
Annual (Mcf)	24,700	31,800	38,420
Peak day (Mcf)	70	132	180

The total estimated cost of Applicant's proposed distribution system is $73,374, which cost will be financed by short-term borrowing of up to $50,000, with the remainder of the funds being provided by current operating income.

Although a copy of the application was served on Respondent it failed to file an answer within the time fixed by the Commission's Regulations under the Natural Gas Act.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed herein.

The Commission finds:

(1) Respondent, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., a Delaware corporation having its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of July 15, 1947, in Docket No. G-910 (6 FPC 777).

(2) Applicant, Concord Natural Gas Corporation, a corporation organized and existing under the laws of the State of New Hampshire, is authorized to construct and operate facilities and distribute and sell natural gas as proposed.

(3) It is necessary and desirable in the public interest that Respondent be directed to establish physical connection of its natural gas transmission facilities with the proposed facilities of Applicant and to sell and deliver up to 180 Mcf of natural gas per day to Applicant, as set forth in the application and as hereinafter ordered and conditioned.

(4) This order should be conditioned upon Applicant being prepared to receive natural gas from Respondent, as proposed, within one year from the date on which this order issues.

(5) The requirement that Respondent serve Applicant, as requested, will not place an undue burden upon Respondent nor impair its ability to render adequate service to existing customers.

The Commission orders:

(A) Respondent is directed to establish physical connection of its natural gas transmission system with the facilities to be constructed by Applicant, and to sell and deliver up to 180 Mcf of natural gas per day to Applicant, all as hereinbefore described and as more fully described in the application.

(B) Applicant shall be prepared to receive natural gas from Respondent within one year from the date of this order.

(C) Respondent shall notify the Commission of the commencement of service within 10 days thereof.

(D) Respondent shall execute and file with the Commission a service agreement with Applicant in accordance with the Commission's Regulations.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

NANTAHALA POWER AND LIGHT COMPANY, DOCKET NO. E-7261

ORDER DENYING PETITION FOR REHEARING AND RECONSIDERATION

(Issued September 6, 1966)

Nantahala Power and Light Company on August 16, 1966, filed a petition for rehearing and reconsideration of the declaratory order issued on July 18, 1966, 36 FPC 119, which requires that Petitioner file applications for licenses under the Federal Power Act for its Nantahala, Thorpe, Queen's Creek, Tuckasegee, Cedar Cliff, Bear Creek, and Tennessee Creek hydroelectric developments in the Little Tennessee River basin.

The Commission finds:

The assignments of error and grounds for rehearing set forth in the above-described petition for rehearing and reconsideration of the declaratory order of July 18, 1966, present no facts or principles of law which, were not considered by the Commission when it issued the order or which, having now been reconsidered, warrant any change or modification of the order.

The Commission orders:

The above-described petition for rehearing and reconsideration of the declaratory order of July 18, 1966, is denied.

Before Commissioners: Lee C. White. Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

NATURAL GAS COMPANIES—INTEREST ON REFUNDS OF PORTION OF INCREASED RATES OF INDEPENDENT PRODUCERS RELATING TO ROYALTIES AND TAXES TO FEDERAL AND STATE GOVERNMENTAL AUTHORITIES, DOCKET NO. R-280

ORDER NO. 326

REVISING PARAGRAPH (C) AND ADDING A NEW PARAGRAPH (F) TO § 154.102 OF REGULATIONS UNDER THE NATURAL GAS ACT

(Issued September 6, 1966)*

On August 26, 1965, the Commission issued a notice of proposed rule-making in this proceeding (30 F.R. 11228, September 1, 1965) wherein it proposed to provide relief to independent producers from their obligation to pay interest on that portion of an increased rate found to be unjustified which relates to royalties and/or taxes they are required to pay to federal or state governmental authorities, to the extent that refunds are made without interest.

Comments were invited from interested persons to be submitted by October 19, 1965. All of the 19 responses to the notice,[1] including those from major and small producers, various independent producer associations, and a state commission, supported the proposed action.

Several of the responses point out that the relief is proposed only in those cases where governmental authorities "require" payment of royalties or taxes on amounts collected subject to refund and that the provision is too restrictive. They state that whether a producer is required by law or required by policy to make such payments raises a very difficult legal question that may appropriately be avoided by deleting the phrase "* * * where such authorities require payment of royalties or taxes on amounts collected subject to refund," from the proposed § 154.102(f) of said Regulations. The suggestion is meritorious and we shall adopt it.

Other comments sought to broaden the proposed relief by exempting the producer from paying interest on refunds representing royalty payments to all royalty owners, when such royalty owners do not pay interest to the producers. Our proposal, however, was intended to grant relief only in those instances where royalty payments were required (whether by law or policy) to be made to governmental authorities and producers were unable to protect themselves through the original lease negotiations or subsequent legal action to obtain interest on refundable amounts.

The remaining comments sought the reduction of the interest rate on refunds from 7 percent per annum now provided in § 154.102(c) of the Regulations to 4½ percent. In arguing that the interest rate on refunds should be reduced from 7 percent to 4½ percent per annum, the producers apparently misconstrue the reasons for allowing a lower rate of interest on retained refunds in Permian[2] and the cited settlement cases. The reason for permitting a lower rate of interest in those cases is that the producer has agreed to or has been found liable for refunds but has been ordered by the Commission to retain the refundable amounts pending Commission determination of the flow-through obligations of their purchasers.[3] In these circumstances, the producer has been given the option of utilizing the retained refunds in its operations upon the payment of the prime rate of interest at which it could presumably borrow funds for such operations.[4] However, this consideration has no applicability to the situation where the producer of his own volition has collected, subject to refund, a rate in excess of the just and reasonable rate. There is no justification in such a case for allowing such a low interest obligation.

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*Published in the Federal Register on September 10, 1966 (31 F.R. 11934).

[1] Amerada Petroleum Corporation; The California Company; W. B. Cleary, Chairman, Natural Gas Committee, Oklahoma Independent Petroleum Association; Continental Oil Company; Dorchester Gas Producing Corporation; Mrs. James R. Dougherty; Humble Oil & Refining Company; Hunt Oil Company, *et al.;* Independent Petroleum Association of America; State Corporation Commission of the State of Kansas; The Nueces Company; Pan American Petroleum Corporation; Phillips Petroleum Company; Placid Oil Company; Shell Oil Company; Sinclair Oil & Gas Company; Socony Mobil Oil Company, Inc.; Southern Union Production Company; and Sun Oil Company.

The Commission further finds:

In view of the foregoing, and upon consideration of all relevant matters presented, including the arguments, contentions, suggestions and other views expressed in the comments received, it is necessary and appropriate for the administration of the Natural Gas Act, that the Regulations under the Natural Gas Act be amended as herein provided.

The Commission, acting pursuant to the authority granted by the Natural Gas Act, as amended, particularly sections 4, 5, and 16 thereof (52 Stat. 822, 823, 830; 15 U.S.C. 717c, 717d, 717o), *orders:*

(A) Part 154, Subchapter E, Regulations Under the Natural Gas Act, Chapter I of Title 18 of the Code of Federal Regulations, is amended by revising paragraph (c) and adding a new paragraph (f) to § 154.102 as follows:

§ 154.102 Suspended changes in rate schedules; motions to make effective at end of period of suspension; procedure.

* * * * *

(c) The independent producer shall be obligated to refund at such times and in such amounts to the persons entitled thereto, and in such manner as may be required by final order of the Commission, the portion of any increased rate found by the Commission in that proceeding not justified, together with interest thereon at the rate of 7 percent per annum from the date of payment to the producer until refunded, except as provided in paragraph (f) below; to bear all costs of any such refunding; to keep accurate accounts in detail of all amounts received by reason of the increased rates or charges effective as provided in the order, for each billing period, specifying by whom and in whose behalf such amounts were paid; and to report in writing and under oath to the Commission monthly, or quarterly if he so elects and so notifies the Commission within thirty days from the date the Secretary notifies the producer that the increased rates may be effective, for each billing period, and for each purchaser the billing determinants of natural gas sales to such purchasers and the revenues resulting therefrom, as computed under the rates in effect immediately prior to the effective date of the change, and under the rates which become effective pursuant to the motion, together with the differences in the revenues so computed;

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[2] *Area Rate Proceeding*, Opinion No. 468, Docket No. AR61-1, August 5, 1965, 34 FPC 159.

[3] See: *Reserve Oil and Gas Company*, Docket No. G-18570, *et al.*, order issued March 2, 1966, 35 FPC 309.

[4] At the time of issuance of the Permian decision, the first case where the lesser interest obligation was authorized, the prime rate of interest was 4½%.

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(f) No interest is required to be paid on any portion of a refund which represents payments of royalties or taxes to federal or state governmental authorities, except to the extent that such authorities pay interest to the producer when refunding overpayments of royalties or taxes.

[Secs. 4, 5, 16, 52 Stat. 822, 830; 15 U.S.C. 717c, 717d, 717o]

(B) This amendment herein adopted shall become effective upon the issuance of this order.

(C) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

PROVISION FOR RESERVE CAPACITY IN NATURAL GAS PIPELINE COMPANY CERTIFICATE APPLICATIONS, DOCKET NO. R-293

ORDER DISMISSING PROPOSED STATEMENT OF POLICY

(Issued September 6, 1966)*

On November 2, 1965, the Commission issued a Notice of Proposed Statement of Policy with respect to applications for certificates of public convenience and necessity which may be filed by natural gas companies pursuant to Sections 157.6, 157.13 and 157.14 of its Regulations under the Natural Gas Act. The proposed Statement of Policy was intended as a guide to the companies in the filing of their applications to permit them the necessary degree of flexibility to meet the anticipated future needs of their customers while at the same time protecting against uneconomic overbuilding. To that end we proposed a policy of encouraging applications incorporating reserve capacity in the order of one year's estimated normal market growth.

We indicated that it would be helpful to receive comments from interested parties "with regard both to its content and the advisability of its promulgation." As a result of the notice, comments were received from a number of natural gas pipeline companies and distributors. The comments, though generally sympathetic with the Commission's objective, expressed doubt that the procedures in the policy statement would effectuate the goal of the Commission. Upon a review of the comments, we have reached the conclusion that it would not be in the public interest to promulgate now the proposed Statement of Policy or any other similar formula for dealing with the problems of needed reserve capacity for peak requirements and the avoidance of emergency situations. Accordingly, we shall terminate the docket and dismiss the proposed rule. However, while we think that any specific expansion formula would not attain the goals sought, we remain convinced that all pipelines can and should plan for their expansion in a way which will normally provide for possible

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*Published in the Federal Register on September 10, 1966 (31 F.R. 11947).

emergency situations and avoid the necessity of requests for temporary authorizations.

The Commission orders:

The proceedings in Docket No. R-293 are terminated and the proposed rule therein is dismissed.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

TENNESSEE GAS PIPELINE COMPANY, A DIVISION OF TENNECO INC., DOCKET NO. CP66-180

ORDER FURTHER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND ACCEPTING FOR FILING TARIFF SHEETS

(Issued September 6, 1966)

On June 30, 1966, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Petitioner), filed in Docket No. CP66-180 a petition to amend the order of the Commission issued in said docket on May 10, 1966, 35 FPC 715, requesting **that the subject order be amended so as to specifically authorize the interim natural gas service to provide a portion of the increased winter requirements of** nine of Petitioner's New England customers, all as more fully set forth in the **petition to amend.**

Petitioner states that while its exhibits to the application filed in the instant proceeding reflected the aforementioned interim service, a specific request for same was inadvertently overlooked in the text of the application because of the insignificant volume involved. The total amount of such service is 8,248 Mcf of gas per day. Exhibit Z-1, column 5 of pages 1 and 2 of Petitioner's original application reflects the aforementioned interim service to the nine New England customers as follows:

Line No.	General Service Customer	Contracted Demand or Maximum Contract Quantity		
		Rate Sched.	Presently Authorized	Proposed Interim
7,8	Connecticut Gas Company (Wallingford)	G-6	4,327	638
16	Greenwich Gas Company	G-6	11,741	337
17	Haverhill Gas Company	G-6	12,138	203
18	Lawrence Gas Company	G-6	16,088	1,345
22	Mystic Valley Gas Company	G-6	38,404	2,922
23	New Britain Gas Light Company	G-6	11,549	799
24	Northampton Gas Light Company	G-6	4,073	242
25	North Shore Gas Company (Beverly-Salem)	G-6	12,345	759
39	Valley Gas Company	G-6	18,462	1,003
	Total New Service			8,248

Petitioner states that while it is of the opinion that the Commission's order of May 10, 1966, did in fact authorize the Interim General Service, the order is not specific in this regard and Petitioner, therefore, respectfully requests that said order be amended in such a manner as to specifically authorize the interim service specified above.

Petitioner filed the subject tariff sheets[1] on June 24, 1966, to initiate an interim service, designated Interim General Service, Rate Schedule IG-6, to certain of its general service customers in its New England zone. The purpose of the service is to supply additional gas supplies to these customers from its mainline facilities during the forthcoming winter and subsequent months pending the completion of its liquefied natural gas facilities (LNG) in New England. Upon the availability of the LNG service, on or about October 1, 1967, the interim service would terminate and the customers would obtain supplies from the LNG facilities.[2]

Due notice of the filing of the petition to amend and opportunity for hearing thereon have been given by publication in the Federal Register on July 16, 1966 (31 F.R. 9695). No protest, petition to intervene, or notice of intervention has been filed in this proceeding concerning this amendment.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act, and the public convenience and necessity require (1) that the Commission's order issued on May 10, 1966, in Docket No. CP66-180 be amended so as to specifically authorize Petitioner to provide the interim service proposed in its tariff filing of June 24, 1965, and (2) that Rate Schedule IG-6 (Interim General Service) consisting of Original Sheets Nos. 66A, 66B, 66C, 66D, and 146B and Second Revised Sheet No. 146A to Tennessee's Eighth Revised Volume No. 1 be accepted for filing to be effective on the date of issuance of this order.

The Commission orders:

(A) The Commission's order issued May 10, 1966, in Docket No. CP66-180 is amended so as to specifically authorize Petitioner to provide the interim service proposed (Interim General Service, IG-6) for its general service customers in its New England Zone in its Rate Schedule filed June 24, 1966, as described hereinbefore and as more fully described in the petition to amend.

(B) Tennessee Gas Pipeline Company's Original Sheets Nos. 66A, 66B, 66C, 66D, and 146B and Second Revised Sheet No. 146A to its Eighth Revised Volume No. 1 are accepted for filing effective on the date of issuance of this order.

(C) In all other respects said order, as amended, shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

UNITED NATURAL GAS COMPANY AND THE MANUFACTURERS LIGHT AND HEAT COMPANY, DOCKET NO. CP64-67

FINDINGS AND ORDER AMENDING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued September 6, 1966)

On June 15, 1966, United Natural Gas Company (United) and The Manufacturers Light and Heat Company (Manufacturers), collectively referred to as

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[1] Original Sheets Nos. 66A, 66B, 66C, 66D, and 146B and Second Revised Sheet No. 146A to Eighth Revised Volume No. 1.

[2] Tennessee was authorized to construct and operate its LNG plant by order issued July 26, 1965, in Docket No. CP65-352, 34 FPC 115.

Petitioners, filed in Docket No. CP64–67 a joint petition to amend the order issued in said docket on March 25, 1964, 31 FPC 699, so as to permit Petitioners to establish a new delivery point for their existing gas exchange arrangement, all as more fully set forth in the petition to amend.

Petitioners now exchange natural gas in Brush Valley Township, Indiana County and in Benezette Township, Elk County, Pennsylvania, pursuant to the certificate of public convenience and necessity issued by the Commission in the instant docket on March 25, 1964. As a part of the exchange arrangement Manufacturers delivers locally produced gas to United at United's Medix Run Compressor Station in Benezette Township, Elk County, Pennsylvania, for compression into United's 12-inch Line No. F–100. Manufacturers pays United a pro-rata share of United's cost in operating and maintaining the Medix Run Compressor Station, based upon the ratio of the volume of gas pumped for Manufacturers to the total volume pumped through the station.

By the instant filing, Petitioners propose to move the delivery point located at the Medix Run Compressor Station to a point in Gibson Township, Cameron County, Pennsylvania where Manufacturers' existing production facilities cross United's Line No. F–100. The proposed new delivery point is approximately 14 miles from the existing Medix Run delivery point.

In bypassing United's Medix Run Compressor Station and redelivering the same volumes of gas to United at the proposed new delivery point on United's Line No. F–100, Manufacturers will save an estimated $6,000 per month which is the approximate amount now being paid to United for compression services.

In order to effectuate the proposed change in Manufacturers' delivery point to United, United will use an existing 4-inch tap on its Line No. F–100 and Manufacturers will move the meter used at the present delivery point and install it at the new delivery point, together with installing the necessary materials and fittings required to connect Manufacturers' existing production facilities to the existing tap on Line No. F–100.

The total estimated cost to Manufacturers for installing the proposed meter and connecting facilities is $5,500.

After due notice, no protest, petition to intervene or notice of intervention has been filed herein.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's order issued on March 25, 1964, in Docket No. CP64–67 be amended as hereinafter ordered and conditioned.

The Commission orders:

(A) The Commission's order issued on March 25, 1964, in Docket No. CP64–67 is amended by authorizing Petitioners to move their existing point of delivery located near Medix Run, Benezette Township, Elk County, Pennsylvania, on United's Line F–100 to a new location on the same line in adjoining Gibson Township, Cameron County, Pennsylvania, as hereinbefore described and as more fully set forth in the petition to amend.

(B) The authorization granted in paragraph (A) above is conditioned upon the filing by United Natural Gas Company of an application pursuant to Section 7(b) of the Natural Gas Act, within 90 days of the issuance of said order, requesting authorization to abandon the above-described Medix Run Compressor Station.

(C) The authorization granted herein is further conditioned upon the amendment by United Natural Gas Company of its Rate Schedules X-3 and X-4 and the amendment by The Manufacturers Light and Heat Company of its Rate Schedules X-14 and X-15, so as to reflect the new delivery point authorized herein.

(D) In all other respects the certificate of public convenience and necessity issued in the instant docket on March 25, 1964, shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

CITY OF ANCHORAGE, ALASKA, PROJECT NO. 2405

ORDER EXTENDING PERIOD OF PRELIMINARY PERMIT

(Issued September 7, 1966)

Application was filed on May 4, 1966, and modified on May 31, 1966, by City of Anchorage, Alaska, permittee for proposed Project No. 2405, for a 12-month extension of the period of the permit. The preliminary permit was issued by the Commission on May 11, 1964, 31 FPC 1143, for a period of 24 months, effective May 1, 1964. The project is proposed to be located on Eagle River, approximately 2 miles upstream from the Glen Highway crossing, in the Third Judicial Division, Alaska, affecting public lands of the United States in the general vicinity of Anchorage, Eagle River and Chugiak.

The permittee has advised that the rehabilitation of municipal works damaged by the March 27, 1964 earthquake took priority over planning for new projects. Commission staff in its San Francisco Regional Office advises that in the circumstances the permittee has proceeded diligently under the permit with the investigations of the proposed project.

The Commission finds:

It is not inconsistent with the public interest to extend the period of the preliminary permit as applied for.

The Commission orders:

The period of the preliminary permit for proposed Project No. 2405 is hereby extended through April 30, 1967.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

ELIZABETHTOWN GAS COMPANY, DOCKET NO. CP66-425

DECLARATION OF EXEMPTION

(Issued September 7, 1966)

Elizabethtown Gas Company (Applicant) filed an application on June 24, 1966, for exemption from the provisions of the Natural Gas Act, pursuant to Section 1(c) thereof.

Applicant owns and operates a distribution system in portions of Union and Middlesex Counties, New Jersey, and purchases or will purchase gas from Transcontinental Gas Pipe Line Corporation and Texas Eastern Transmission Corporation for resale at wholesale to its wholly-owned subsidiary, Northwest Jersey Natural Gas, Inc. This gas is received at one delivery point in Warren County, New Jersey, and at two delivery points in Hunterdon County, New Jersey. All of the gas purchased by Applicant is received and consumed within the boundaries of New Jersey.

The New Jersey Board of Public Utility Commissioners has certified to the Federal Power Commission that it has and will be exercising regulatory jurisdiction over the rates, service and facilities of Applicant, including the proposed sales to Northwest Jersey Natural Gas, Inc.

Wherefore, the Commission declares, by reason of the foregoing:

> Elizabethtown Gas Company is exempt from the provisions of the Natural Gas Act, and the orders, rules and regulations of this Commission issued thereunder.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

SOUTHERN NATURAL GAS COMPANY, DOCKET NO. CP64-314

ORDER AMENDING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued September 7, 1966)

On July 5, 1966, Southern Natural Gas Company (Petitioner) filed in Docket No. CP64-314 a petition to amend the order issued in said docket on June 8, 1966, in the proceeding entitled *Transcontinental Gas Pipe Line Corporation, et al.*, Docket No. CP64-270, *et al.* (Opinion No. 493, 35 FPC 917), requesting authorization to permit the construction of the 22.24 miles of its Macon-Atlanta loop pipeline authorized by said order to commence at Petitioner's Griffin Gate Valve which is located at M.P. 40.155 on its Macon-Atlanta line rather than at M.P. 1.659 as presently authorized, all as more fully set forth in the petition to amend.

Petitioner's two main transmission lines, North and South Lines, are presently interconnected between Macon and Atlanta, Georgia, by its Macon-Atlanta pipeline. The additional 22.24 miles of loop pipeline authorized by the subject order was to commence at the Macon end of the Macon-Atlanta pipeline and extend northwesterly toward Atlanta. By the instant filing, Petitioner proposes that the loop commence near the center of its Macon-Atlanta pipeline and extend northwesterly for the same distance. The capacity of the subject length of pipeline will remain the same whether it commences at Atlanta or as now proposed.

The purpose of the instant proposal is to provide Petitioner with increased flexibility in future planning for additional market requirements.

Due notice of the filing of the petition to amend and opportunity for hearing thereon has been given by publication in the Federal Register on July 7, 1966 (31 F.R. 9696). No protest, petition to intervene, notice of intervention or request for hearing has been filed in this proceeding.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the certificate of public convenience and necessity issued in Docket No. CP64-314 be amended as hereinafter ordered.

The Commission orders:

(A) The certificate of public convenience and necessity issued to Southern Natural Gas Company in Docket No. CP64-314 on June 8, 1966, is amended by authorizing the construction of the 22.24 miles of pipeline authorized by said certificate to commence at the Griffin Gate Valve located at M.P. 40.155 on the Macon-Atlanta line, as hereinbefore described and as more fully described in the petition to amend.

(B) In all other respects said certificate shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge

MISCELLANEOUS AMENDMENTS TO F.P.C. FORM NO. 1; REPORT FORM PRESCRIBED FOR CLASS A AND CLASS B ELECTRIC UTILITIES AND OTHERS SUBJECT TO THE FEDERAL POWER ACT, DOCKET NO. R-284

ORDER NO. 311-A

AMENDING § 141.1 OF THE COMMISSION'S REGULATIONS

(Issued September 8, 1966)*

Order No. 311, issued in this proceeding on December 8, 1965 (34 FPC 1437, 30 F.R. 15465), amended the Annual Report FPC Form No. 1 by, among other things, deleting certain schedules and changing the "Verification" page to an "Attestation." The list of schedules contained in the form which appears in paragraph (d) of § 141.1 of the regulations should have been amended so as to correctly list the current contents of the report form. We are here supplying the inadvertent omission.

The Commission finds:

Notice of this amendment prior to adoption is unnecessary and good cause exists for making it effective immediately.

The Commission, acting pursuant to the provisions of section 309 of the Federal Power Act as amended, (49 Stat. 858; 16 U.S.C. 825h), *orders:*

(A) Paragraph (d) of § 141.1, Part 141, Subchapter D, Chapter I of Title 18 of the Code of Federal Regulations, is revised by deleting the four schedule titles "Special Funds," "Special Deposits," "Notes Receivable" and "Accounts Receivable" and changing the last title, "Verification," to "Attestation."

(B) The revisions here adopted shall be effective upon the issuance of this order.

(C) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

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*Published in the Federal Register on September 15, 1966 (31 F.R. 12055).

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

ANNUAL REPORTS OF CLASSES A, B, C, & D NATURAL GAS COMPANIES SUBJECT TO THE NATURAL GAS ACT—MISCELLANEOUS AMENDMENTS TO FPC FORMS 2 AND 2-A, DOCKET NO. R-283[1]; TELEGRAPHIC REPORTING OF ACCIDENTS INVOLVING CERTIFICATED FACILITIES OF NATURAL GAS PIPELINE COMPANIES, DOCKET NO. R-291

ORDER NO. 327

REPORTING OF PIPELINE ACCIDENTS AND FAILURES

(Issued September 8, 1966)*

This order amends Part 260 of the Commission's Regulations to require natural gas companies (a) to notify the Commission by telegram or telephone of certain pipeline failures, defined in the rule, occurring on facilities certificated by the Commission and (b) to submit a detailed report by mail within 20 days. In addition the pipeline company is required to furnish a copy of both of these reports to the state regulatory commission in the state or states where the accident or failure occurred and the telegraphic report to the state commission in those states where service might be affected. In order to expedite attention to serious accidents, this order provides for telephonic reports of accidents which cause a fatality or interruption of service to a wholesale customer. Finally, the company in its annual report to the Commission shall list and supply summary information with respect to the failures which had been individually reported during the year covered by the report. The information furnished pursuant to the rule will keep the Commission informed of serious accidents or failures and will assist it in developing comprehensive data on the causes of pipeline failures.

Notice was issued in Docket No. R-283 on September 20, 1965 (30 F.R. 12361, September 28, 1965) and in Docket No. R-291 on November 2, 1965 (30 F.R. 14111, November 9, 1965).

Eleven natural gas companies,[2] the Independent Natural Gas Association of America (INGAA), and the Public Service Commission of Michigan submitted comments in Docket No. R-291.

We received comments in Docket No. R-283 on the specific data which we propose to require to be submitted in the report of details from eight pipeline companies,[3] the Kansas State Corporation Commission, INGAA, and Martin T. Bennett, a consulting engineer.

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[1] The notice issued in Docket No. R-283 proposed, among other things, the revision of the schedule "Service Interruptions and Property Damage" in F.P.C. Form 2 and the addition of such a schedule to F.P.C. Form 2-A. The Commission deferred consideration of these matters when it issued Order No. 310, in that docket, on December 8, 1965, 34 FPC 1436, 30 F.R. 15465. Since those proposals relate, generally, to the subject matter of the proceeding in Docket No. R-291, they will now be considered.

*Published in the Federal Register on September 14, 1966 (31 F.R. 12015).

[2] Algonquin Gas Transmission Company, Columbia Gas System Service Corporation, El Paso Natural Gas Company, Equitable Gas Company, Lone Star Gas Company, Michigan Gas Storage Company, Northern Natural Gas Company, Pacific Gas Transmission Company, Panhandle Eastern Pipe Line Company, Texas Eastern Transmission Corporation, Transwestern Pipeline Company.

INGAA and several companies requested that the Commission defer action on Docket Nos. R-283, R-290, and R-291, until the whole matter of safety could be comprehensively analyzed and discussed by a select committee of the industry and the Commission. A conference was held on January 19, 1966, between INGAA and the Commission to discuss the proposals in these three proceedings. We have given careful consideration to all industry comments and have adopted many of the suggestions for improvement of the regulations.

As originally noticed, the proposed rules called for reports on accidents or failures (1) which required taking any segment of pipeline out of service; or (2) in which gas escaped and ignited; or (3) which caused property damage of $1,000 or more; or (4) which caused a fatality or injury requiring hospitalization. The rule, as noticed in Docket No. R-291, required first a telegraphic report and then a detailed report within 10 days. Docket No. R-283 then proposed to require a repetition in the annual report of the information supplied in the individual report. The major objection of the industry in Docket No. R-291 (applicable also to Docket No. R-283) was that the definition reportable accident would require the reporting of numerous unimportant incidents and failures because it was not clear whether testing or maintenance shutdowns were to be included. Consequently, at the January 19th conference INGAA recommended a narrower definition of reportable accident than we had proposed.[4] Although, we do not fully adopt INGAA's suggestion, we have narrowed our definition of reportable accident substantially to make it clear that occurrences connected with routine maintenance or construction, pinhole leaks, and testing failures are not to be reported except under certain circumstances and also to make $5,000 rather than $1,000 of estimated property damage the reporting threshold. Several companies thought that $1,000 was too low, a majority suggested $5,000 and a few $10,000 or higher. Some suggested that the limit only refer to the non-company property while others did not want to report separate estimate of damage to non-company property on the grounds that it might prejudice them in subsequent litigation. We believe that an estimate of damage only to non-company property is not as relevant as an estimate of total damage for the purposes of determining the seriousness of a failure and consequently will require only a combined total. In place of the monetary estimate of company damage, we are requiring a brief description of the actual damage. The possibility of prejudice in a damage suit will be lessened by the fact that an estimate of combined damage, not damage to others, is to be reported. We have added a fifth category of reportable accidents, suggested by the discussion with INGAA at the January 19, conference—those which are in the judgment of the company significant, but which do not meet the other criteria specifically named.

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[3] Columbia Gas System Service Corporation, El Paso Natural Gas Company, Natural Gas Pipeline Company of America, Panhandle Eastern Pipe Line Company, Texas Gas Transmission Corporation, Trunkline Gas Company, Union Light, Heat and Power Company, United Gas Pipe Line Company.

[4] INGAA's proposed definition was: "an accident or transmission operating failure involving facilities operated under certificate authorization from the Commission shall be a rupture or break in the pipeline material, valve or pipe fitting, or a failure in a compressor station which results in (i) fatality or personal injury requiring hospitalization, (ii) loss of service to a market of the company, (iii) ignition of the total stream of gas moving in the pipeline, or (iv) estimated damage to property of third parties of $10,000 or more."

Several states require the reporting of a natural gas company's accidents to the state public utility commission,[5] and a number define a reportable accident to include more incidents than our rule. For example, the only three states which use specific estimates of damage as criteria for determining a reportable accident, Massachusetts, Rhode Island, and New Jersey, require the reporting of accidents resulting in property damage of over $500. Michigan requires reports on accidents "* * * resulting in serious property damage or loss of gas" and Washington requires reports on accidents "causing * * * substantial damage to property."

We are also requiring that the company send a copy of the telegram and the detailed written report to the state commission where the failure occurred, and also, in response to a suggestion by the Michigan Public Service Commission, which itself requires accident reports, we are requiring that copies of the telegraphic reports be sent to the state regulatory commission in the state or states where service might be affected by the occurrence. We believe that such reporting may prove particularly useful to states dependent upon out-of-state supplies, although we note that Kansas Corporation Commission (which also requires accident reports) advises that it would have no direct need at this time for the specific data to be reported in the detailed report under our rule.

Natural Gas Pipeline Company of America and Panhandle Eastern Pipe Line Company challenged the Commission's statutory authority to require telegraphic reports. Panhandle contended that such reports were not needed or required by the Commission because the reports would be after the fact and could in no way aid the Commission in its regulation of rates, extension of facilities, and other matters relating to the transportation and sale of natural gas in interstate commerce. We are convinced that such reports individually and collectively will assist both the Commission and the industry to fulfill their obligation to the public of better service through increased efficiency and reliability. We also believe we have full statutory authority to issue this order under section 7 (which applies to the extension, abandonment and certification of facilities, section 10 (which authorizes the Commission to prescribe reports as necessary or appropriate to assist it in administering the Act), section 13 (which authorizes complaints by States, municipalities and State commissions), section 14 (which authorizes investigations), and section 16 (which deals with the administrative powers of the Commission).

We found the comments on the specific data which we proposed to require helpful and have adopted many of the changes suggested. We have altogether eliminated three items as not necessary.[6] A few companies commented that some of the data asked for in the detailed report would not be relevant for some failures. For example, data on cathodic or other corrosion protection are not relevant if earth-moving equipment punctures the pipe. Our rule, therefore, makes clear that certain data may be omitted if it is not relevant to the cause of the failure.

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[5] Connecticut P.U.C., Order March 12, 1962, Docket No. 10050, section 37; P.S.C. of Indiana, Rules for Gas Utilities, Cause No. 30281, Approved April 2, 1964, Rule 22; Kansas State Corp. Commission; Rules and Regulations Relating to Standards of Quality, Pressure, Accuracy of Measurement, Safety and Service of Natural Gas, Docket 34856–U, January 16, 1961 sec. 705; Maryland P.S.C., Regulations Governing Service Supplied by Gas Companies, Order No. 5567, July 1, 1964, section 203.6; Massachusetts Dept. Pub. Util., Order, January 23, 1963, D.P.U. 9734–B, section 8; Michigan P.S.C. Gas Safety Code, Order D–3913, section R–460.862.1; New Hampshire P.U.C., Rules and Regulations Prescribing Standards for Gas Utilities, Order No. 7790, January 11, 1962, sec. 30; New Jersey Department of Public Utilities, Order in Docket No. 6663, section 29; Oregon, Rules and Regulations of the Public Utility Commissioner, section 24–045; Pennsylvania, P.U.C., Gas Regulations, effective January 1, 1963, section 202, rule 1; Rhode Island Dept. of Bus. Reg., Div. of Pub. Utils. November 1, 1955, section 15; Washington P.S.C. Consolidated Causes No. U–8799 and U–8800, Rule 25.

[6] Design operating pressure; measurable pit depths; reconstruction costs.

Others commented that the specific data asked for in the detailed report will not always be available in 10 days. We have relaxed the rule as proposed and it now provides 20 days for submission of the report of details. The rule further states that any additions or changes to the 20-day report should be submitted when they become known, in a supplement to that report. We have also revised some of the items to make them more specific and meaningful.[7] We have added four items: three of these more specifically ask for data on the pipeline facility using the ASA B31.8 Code as a reference point[8] and one is a more specific question on the environment in which the pipe is located.[9]

The rule proposed in Docket No. R-283 would have required the complete contents of the written individual reports to be included also in the annual report. It was mentioned at the meeting with INGAA that this is not necessary and we are by this order, in fact, reducing the amount of information on each reported accident below that which is now required in the annual reports. Since we need only one detailed report of each failure, the annual report schedule here prescribed requires only an identification of each failure and the dates on which the detailed written report and any supplements were filed. Martin T. Bennett made two other specific suggestions which we have not adopted. One was to require the location class at the time of the accident. We believe this is included in the definition of construction type which we are prescribing. The other was that we require the distance to the nearest upstream compressor station, and the discharge pressure before the failure as well as the nearest pressure reading both upstream and downstream. We do not believe this information is necessary for our purposes in view of the related information being required.

The Commission finds:

(1) The adoption of these amendments is necessary and appropriate for the administration of the Natural Gas Act.

(2) The revisions and additional items of information which we have added in the written detailed report and which did not appear in the original notice are supplementary to and add specificity to items originally noticed and do not constitute substantive changes in the reporting requirement proposed. Further notice and opportunity for comment thereon pursuant to section 4(e) of the Administrative Procedure Act prior to adoption and promulgation is therefore unnecessary.

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[7] Estimated property damage; description of affected facility; applicable safety code.

[8] 1) "Construction type required for facility by ASA B31.8, paragraph 841, if installed at time of accident." The construction type, as used in the ASA code, determines the highest pressure, for safety purposes, expressed as a percent of the minimum yield strength which a pipe in any given locality may use under the ASA standards. The main factor determining construction type is the population density.

2) "Maximum allowable operating pressure allowed for facility by ASA B31.8 if installed at time of accident." This indicates the maximum safe pressure which the most current ASA safety code would allow.

3) "Maximum pressure allowed by state law." This may in some cases be lower than that prescribed by the ASA code.

[9] Extra protection needed for pipe due to special environmental conditions. This will indicate if any conditions which could affect the life of the pipe were present.

The Commission, acting pursuant to the authority of the Natural Gas Act particularly sections 7, 10, 13, 14 and 16 (52 Stat. 824, 826, 827, 828, 830; 56 Stat. 84; 15 U.S.C. 717f, 717i, 717l, 717m, 717o), *orders:*

(A) Part 260, Subchapter G, Chapter I, of Title 18 of the Code of Federal Regulations is amended by adding a new § 260.9 to read as follows:

§ 260.9 Reports by natural gas pipeline companies on pipeline system accidents or failures.

(a) Every natural gas pipeline company shall report to the Federal Power Commission any pipeline system accident or failure involving facilities operated under certificate authorization from the Commission which:

(1) causes any fatality or personal injury requiring hospitalization or;

(2) requires the taking of any segment of pipeline out of service; or

(3) results in gas escaping from the pipeline and igniting; or

(4) causes estimated damage to the property of the company and others of a combined total of at least $5,000; or

(5) is significant. in the judgment of the company, even though it does not meet the criteria of subparagraphs (1) through (4). Plant or equipment shutdowns, reductions in pressure, the escape and ignition of gas, or the taking of a segment of pipeline out of service, solely as a consequence of, or in connection with, planned or routine maintenance or construction; pinhole leaks in the pipe; and failures during testing of pipe or equipment, are not to be reported, except under conditions of subparagraphs (1), (4), and (5) of this paragraph.

(b) Natural gas pipeline companies shall report such accidents by telephone or telegram to the Chief, Pipeline Division, Bureau of Natural Gas, Federal Power Commission, 441 "G" Street, N. W., Washington, D. C., at the earliest feasible moment following the accident or failure and shall state briefly the (1) location and (2) time thereof and (3) the extent of injuries, and (4) all other significant facts known then to the company relevant to the cause of the failure or the extent of damages. Any such accidents which result in a fatality or interruption of service to a wholesale customer shall be reported by telephone (Area Code 202, 393-0100).

(c) To the extent that such information is then available, natural gas pipeline companies shall furnish to the Commission within 20 days of each pipeline system failure or accident defined in paragraph (a) of this section a written detailed report of such failure containing the following information:

(1) Date and hour.

(2) Location — city, county, state, line designation and milepost number.

(3) Number of deaths, if employee, so specify.

(4) Number of injuries, if employee, so specify.

(5) (i) Combined monetary estimate of damage to the property of the company and others.

(ii) Brief description of damage to affected facility.

(6) Service interruption.

(i) Customers affected (specify by customer class).

(ii) Duration of interruption.

(7) Description of cause of accident or failure, to the knowledge of the reporting company.

(8) Emergency actions taken.

(9) Description of affected facility. Give: (i) description and year installed. If pipe also give: (ii) length, (iii) diameter, (iv) wall thickness, (v) steel specification number, (vi) grade, and (vii) pipe class per ASA B31.8, para. 841.12; if coupling or joint involved. denote type.

(10) Has any extra protection been necessary due to special conditions in the environment of the pipe such as stream-bed, high-tension lines, or highway crossing? If so, what extra protection was provided?

(11) Construction type per ASA Code B31.8, para. 841 required for the facility if installed at time of accident.

(12) (i) Maximum allowable operating pressure per ASA Code B31.8 for the facility if installed at time of accident. If company uses a standard other than ASA Code B31.8, give also the maximum allowable pressure under such standard and an explanation of such standard.

(ii) Maximum operating pressure allowed by state law, if applicable.

(13) Operating pressure at time of accident or failure (psig).

(14) Results of any metallurgical tests made on facility involved in failure. Indicate the degree of corrosion and reduction in net effective wall thickness of the segment and preventive measures taken, if applicable.

(15) Method used in testing affected facility to withstand design operating pressure. Describe any periodic leak tests. Describe any upgrading or downgrading of operating pressure.

(16) Description of coating and wrapping materials, method of application and frequency of inspection. If not coated, state why.

(17) Was facility subject to cathodic protection? If so, state the frequency of inspection of protective device and facility affected. If not cathodically protected, state why.

(18) Results of any soil resistivity and soil chemical tests in the area of the facility affected. Indicate degree to which soil bed or the terrain (such as level, rolling, steeply graded) might have contributed to corrosion or failure of the facility.

(d) The company shall file supplements to this detailed report if complete information later becomes available or changes are necessary after this report is filed. The data in items (11) through (18) may be omitted if they are not relevant to the cause of the failure. In these cases the reporting company shall briefly indicate why such information is not relevant.

(e) Copies of both the telegraphic report and the written report shall be sent to the state regulatory commission in the state where the failure occurred. Copies of the telegraphic report shall also be sent to the state commission in those states where service might be affected by the failure.

(f) Natural gas companies shall submit to the Commission an original and three conformed copies of the 20-day report of details and any supplements thereto.

(B) The schedule, "Service Interruptions and Property Damage" on page 568 of F.P.C. Form No. 2, prescribed by § 260.1 of said Part 260 is deleted and the following schedule is substituted in its place:

PIPELINE SYSTEM ACCIDENTS AND FAILURES

For each pipeline facility accident or failure during the reporting year for which the Commission requires a report under § 260.9 of this part and for any unreported supplements to accident reports of preceding years, furnish the following information. This information correlates with items (1) through (6) of the detailed report required to be submitted to the Commission on each such accident or failure.

(1) (a) Date of accident or failure.

(b) Date or dates on which accident reports were filed pursuant to § 260.9 of this part.

(2) Location—city, county, state.

(3) Number of deaths, if any.

(4) Number of injuries, if any.

(5) Brief description of damage to affected facility.

(6) Service Interruptions.

(i) Customers affected (specify by customer class).

(ii) Duration of interruption.

(C) F.P.C. Form No. 2-A, prescribed by § 260.2 of the said Part 260 is amended by adding a new schedule on page 13, to read as set out in ordering paragraph (B).

(D) In order to correctly list the new schedules, §§ 260.1 (c) and 260.2 (c) are revised as follows:

(1) In § 260.1 (c) revise the schedule title "Service Interruptions and Property Damage" to read "Pipeline System Accidents and Failures."

(2) In § 260.2 (c), add to follow schedule title "Expenditures for Certain Civic, Political and Related Activities," a new title reading "Pipeline System Accidents and Failures."

(Secs. 7, 10, 13, 14, 16, 52 Stat. 824, 826, 827, 828, 830; 56 Stat. 84; 15 U.S.C. 717f, 717i, 717l, 717m, 717o).

(E) The proceeding in Docket No. R-283, insofar as it relates to the proposed schedule "Pipeline Systems Accidents and Failures" in both Form No. 2 and Form No. 2-A, is terminated.

(F) The amendment prescribed herein requiring telegraphic and detailed written reports shall be effective November 1, 1966. The amendments to the Annual Report, Forms 2 and 2-A, shall be effective for the reporting year 1966 and thereafter.

(G) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

WESTERN TRANSMISSION CORPORATION, DOCKET NO. CP66-416

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued September 8, 1966)

On June 15, 1966, Western Transmission Corporation (Applicant), filed in Docket No. CP66-416 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas transmission facilities and the transportation of natural gas, all as more fully set forth in the application.

Applicant seeks authorization to construct and operate 9.2 miles of 4-inch pipeline installed on the surface and appurtenant facilities to enable it to take into its certificated system and to deliver to Colorado Interstate Gas Company (CIG) natural gas to be produced from the Cherokee Creek Unit area in Carbon County, Wyoming, and purchased from U.S. Natural Gas Corporation (U.S. Natural).

By order issued May 26, 1964, in Docket No. CP63-329, *et al.* (31 FPC 1295), the Commission authorized Applicant to sell to CIG for resale natural gas purchased from and produced by U.S. Natural in an area including the Cherokee Creek Unit. Delivery and sale to CIG by Applicant is in Sweetwater County, Wyoming.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application, has been filed.

At a hearing held on September 1, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence including the application, and exhibits submitted in support of the authorizations sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, Western Transmission Corporation, a Delaware corporation having its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order issued May 26, 1964, in Docket No. CP63-329 (31 FPC 1295).

(2) The proposed construction and operation of facilities, and transportation of natural gas in interstate commerce as hereinbefore described, and as more fully described in the application, and exhibits in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The proposed construction and operation of facilities, and transportation of natural gas in interstate commerce as hereinbefore described are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant in this proceeding authorizing the construction and operation of facilities, and transportation of natural gas in interstate commerce as more fully described in the application and exhibits in this proceeding, subject to the jurisdiction of the Commission, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The facilities authorized to be constructed and operated by Applicant shall be completed and placed in actual operation, as provided by paragraph (b) of Section 157.20 of the aforesaid Regulations by January 1, 1967.

(D) Applicant shall file within 30 days after issuance of this order the required revisions of its tariff reflecting the subject facilities in accordance with the Commission's Regulations reflecting the terms and conditions of the transportation, sale and delivery of natural gas to Colorado Interstate Gas Company.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross and Carl E. Bagge.

EL PASO NATURAL GAS COMPANY, DOCKET NOS. G-8932 AND CP66-315

ORDER DENYING MOTION TO CHANGE PLACE OF HEARING

(Issued September 9, 1966)

On August 15, 1966, the Public Utility Commissioner of the State of Oregon filed a motion requesting that the hearing in the above-entitled matter be changed from Washington, D.C., to Portland, Oregon. The following parties filed statements in support of said motion: El Paso Natural Gas Company, Washington Water Power Company, Northwest Natural Gas Company, Cascade Natural Gas Corporation, The People of the State of California and the Public Utilities Commission of the State of California, and The Idaho Public Utilities Commission. Staff filed an answer in opposition.

Our consistent practice over the past decade has been to hold hearings under the Natural Gas Act in Washington, D.C. See *Transwestern Pipeline Company, et al.*, Docket No. CP63-204, *et al.* (January 9, 1964); *Southern California Edison Company, et al.*, 28 FPC 266 (1962). There have been few exceptions to this well established practice. On those few occasions, hearings were scheduled in other locations primarily to accommodate those having limited financial capacity to support small; but significant, interests in proceedings before this Commission. For example, we have ordered hearings to be held in the area where a hydroelectric project is proposed to be located to afford local interests of limited means an opportunity to be heard. In the present proceeding, we do not believe a sufficient showing has been made to depart from our established policy. We will therefore deny the motion of the Public Utility Commissioner of the State of Oregon.

The Commission finds:

The public interest does not require that hearing in this proceeding be changed from Washington, D.C. to Portland, Oregon.

The Commission orders:

The motion filed by the Public Utility Commissioner of the State of Oregon on August 15, 1966, requesting that hearing be held in Portland, Oregon, is denied.

OPINION NO. 497-A

MIDWESTERN GAS TRANSMISSION COMPANY, DOCKET NOS. RP61-19 AND RP62-7 (REOPENED); KNOXVILLE UTILITIES BOARD, ET AL. v. EAST TENNESSEE NATURAL GAS COMPANY, DOCKET NO. RP65-4

OPINION AND ORDER DENYING APPLICATIONS FOR REHEARING AND EXTENDING TIME LIMITATIONS FOR FILING

(Issued September 9, 1966)*

Syllabus

1. Fact that significant share of ordered rate reductions stem from plant additions in 1963 and thereafter as to which neither company elected to

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*Order granting stay issued December 22, 1966, 36 FPC 1099.

apply liberalized depreciation is not relevant; where Commission concludes use of liberalized depreciation will result in a tax saving this conclusion will apply to all eligible property whether or not company has taken liberalized depreciation thereon. P. 600.

2. **It was not incumbent upon Commission to use settlement tax allowance in computing pipeline's tax allowance for rate making purposes; having required refunds and tariff filing changes to reflect use of liberalized depreciation from October 13, 1964, Commission was precluded from using the straight-line depreciation deduction [used in settlement] which would have been proper had Midwestern been allowed to switch from liberalized to straight-line depreciation. PP. 601, 602.**
3. **Commission makes certain modifications in prior opinion and order; *extends* filing limitations and *denies* applications for rehearing.**

Commissioner O'Connor *dissenting*.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

BLACK, *Commissioner:* By its Opinion No. 497 and accompanying order issued July 15, 1966, 36 FPC 61, in the above-entitled proceeding, the Commission ordered Midwestern Gas Transmission Company (Midwestern) and East Tennessee Natural Gas Company (East Tennessee) to file reduced rates effective January 1, 1967, to reflect reductions in their costs of service and revenue requirements resulting from the computation of Federal income taxes on the basis of liberalized depreciation tax deductions, even though both companies have reverted to the use of straight-line tax depreciation in their tax returns. The Commission also ordered Midwestern to make refunds for the period from October 13, 1964 through December 31, 1966. Applications for rehearing have been filed by both Midwestern and East Tennessee and by Natural Gas Pipeline Company of America (NGPL), the City of Chicago (Chicago), and the Independent Natural Gas Association of America (INGAA). In addition to their various allegations of error in the Opinion, Midwestern and East Tennessee have requested an extension in the time allowed therein for the filings required by our order.

Most of the arguments advanced in the applications for rehearing have been previously made and fully considered. In a number of instances the identical legal points were argued at greater length in the briefs and in the oral argument. Our re-examination of these arguments, and the many allegations of error addressed to other matters in the Opinion fully discussed therein, gives us no cause to depart from our basic determinations herein. A few of the matters raised in the applications may, however, benefit from a further discussion.

Both Midwestern and East Tennessee point out that a significant share of the rate reductions ordered by us stem from plant additions made in 1963 and thereafter as to which neither company has elected to apply liberalized depreciation. This is not relevant. It is clear that where we conclude that use of liberalized depreciation will result in a tax saving, this conclusion will apply to all eligible property whether or not the company has taken liberalized depreciation thereon. In the present case, the effect of such determination is made prospective insofar as East Tennessee is concerned. Only Midwestern's voluntary adherence to a rate settlement expressly providing for retroactive treatment of the question precluded similar treatment in the case of Midwestern.

Midwestern contends that our *Alabama-Tennessee* opinion contemplated tax savings at a constant level and that it would require regular annual plant growth of over 4 percent (to prevent a decline in its net tax depreciable plant on which liberalized depreciation is computed) to produce such "true and continuing" tax savings. East Tennessee makes a similar argument. Both misconceive our *Alabama-Tennessee* opinion and our holdings here. Neither the *Alabama-Tennessee* opinion nor our opinion in these proceedings are premised on a conclusion that the annual amount of the tax saving will be constant or even that tax savings will be realized in each and every year. Instead both concluded only that a significant tax saving would result in the long run from the use of liberalized depreciation by a natural gas company maintaining at least a stable gross plant. The validity of our position is demonstrated by the very chart which Midwestern attaches to its rehearing application to make its point. For as this chart (Appendix C to the staff's initial brief) shows, in the case of Midwestern the use of liberalized depreciation will result in a significant *aggregate* tax savings over any full depreciation cycle under the 1.5 percent annual addition to gross plant situation there postulated.[1] The same would be true (though the *aggregate* saving would be less) if the gross plant remained stable. The essential reason why this is true is that over the cycle there will be need for plant replacement. Of course, the extent of the saving will vary with the rate of growth. It is for this reason that we have elected to use the average savings over a five-year period. The companies are free at any time to re-examine the appropriateness of the level of savings computed from the use of liberalized depreciation and to take such action as is appropriate.

Midwestern observes that on page 82 of the Opinion we incorrectly indicated that its decision to change from liberalized to straight-line depreciation came less than two weeks after the *Alabama-Tennessee* decision. As made clear in the chronology shown on pages 67, 68, the statement should have read that its decision came less than two weeks after the initial decision in this case requiring liberalized depreciation.

Finally, Midwestern contends that we have erred in ordering a flow-through refund retroactive to October 13, 1964. We have read its argument with great care and can find no reason therein for changing or otherwise disturbing our resolution of the issue regarding the time of effectiveness of the reduction required by our decision, which we believe is required by the December 1964 settlement order.[2]

Chicago contends that we erred by understating the amount of the liberalized tax depreciation to be used in computing Midwestern's tax allowance for rate-making purposes. It points out that the straight-line depreciation of $2,598,405 used in the settlement was a reduction of $342,500 from the depreciation allowance used in Opinion No. 444 and contends that it was incumbent upon us to use the settlement tax allowance in our computations.

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[1] The calculations shown in Appendix A to Opinion No. 497 differ from those shown in Appendix C to staff's initial brief due to revisions in 1965 and 1966 additions based on 1965 actual additions and Midwestern's estimate of its 1966 additions. The projected additions shown in Appendix A to Opinion No. 497 for the period 1967–71 are lower than shown in Appendix C to staff's initial brief because of the smaller gross plant at December 31, 1966. Correction of the staff schedule using the same figures used in preparation of Appendix A of Opinion No. 497 shows a significant aggregate tax savings over the full depreciation cycle, and in no way supports Midwestern's argument that there is no tax saving.

[2] 32 FPC 1548. Although it appeared initially that Midwestern might be subjected to a tax expense under straight-line depreciation of some $2 million in excess of the tax allowance permitted in the cost of service for the period from October 13, 1964 through December 31, 1966, Midwestern has indicated in its application for rehearing (p. 32, footnote 36) that it has obtained conditional permission from the Internal Revenue Service to resume the use of liberalized tax depreciation effective January 1, 1966.

This misses the point of the reduction in tax depreciation in the settlement. The tax depreciation agreed to by all parties (including Chicago) in the settlement was decreased from that established in Opinion No. 444, 32 FPC 993, to reflect the lower tax depreciable base available to Midwestern on the property on which it had utilized liberalized depreciation during the years 1959 through 1962. Our action in Opinion No. 497 in restoring the reduction insures that both the company and its customers are in the identical circumstance as if the company had continued to take liberalized depreciation in accordance with its past practice. Thus, we have established the tax depreciation and the related revenue deduction on the assumed cost which would have been appropriate if straight-line depreciation had always been used as compared with the costs appropriate if liberalized depreciation had been continued. Our findings requiring Midwestern to make refunds and file tariff changes reflecting the use of liberalized depreciation tax deductions from October 13, 1964, precludes us from using a straight-line remaining life tax depreciation deduction which would have been the proper tax deduction had we allowed Midwestern to switch from liberalized to straight-line depreciation.

Disagreeing with our projection of a 4 percent annual growth rate, East Tennessee takes issue in its application with our calculations as to its past growth. It shows that its system sales were 51,192,893 Mcf in 1956 and 57,886,074 Mcf in 1965 for an annual growth rate of only 1.45 percent. The annual sales figures used in the Opinion of 17,371,000 Mcf in 1956 and 34,242,444 Mcf in 1965, equivalent to an average yearly increase of approximately 10 percent, were only for jurisdictional sales as compared to the figures shown above for total system sales.[3] The statistics show that over the years East Tennessee has progressed from a system having 66 percent industrial sales and only 34 percent jurisdictional sales in 1956 to its 1965 position where 59 percent of its sales are made for resale and 41 percent are of an industrial nature. Considering the drastic reduction in purchases by East Tennessee's largest industrial customer resulting from the curtailment of activities at Oak Ridge,[4] East Tennessee has shown a remarkable ability to supplant lost sales with new customers when the need arises. The evidence shows that East Tennessee has a good potential for growth and that the growth of which it is capable actually has been experienced in the past years, particularly in the sales for resale category.

East Tennessee takes issue with our calculations in Appendix C to Opinion No. 497 regarding the annual reduction in its revenue requirements for the period to 1971 due to the use of liberalized depreciation deductions for tax purposes. The "adjustment for 1954–63 additions" is especially highlighted as erroneous. The figure used for the cited adjustment was based on testimony of record, the accuracy of which was not contested by East Tennessee in the proceeding. While we find no reason to change our projection of a 4 percent annual growth rate for East Tennessee, a growth rate which is conservative when compared to the 5-year and 15-year growth histories reflected in the Opinion, we believe that East Tennessee should be given an opportunity to submit, with suitable supporting material, any proposal for a revision in the calculations regarding the 1954–1963 adjustment, as well as any recomputation of the $6,668,182 plant addition which we had assumed to be depreciable for the first time in 1965 but as to which we are now informed East Tennessee took depreciation on in 1964 on a straight-line basis.

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[3] The same is true for peak-day sales wherein we have utilized jurisdictional peak sales and East Tennessee cites total system peak sales. Our conclusions are not affected thereby.

[4] East Tennessee's Form 2 report for the year 1954 shows sales of 25,593,357 Mcf to A.E.C., or more than 50 percent of total system sales. By 1965 this sale had declined to only 1,834,677 Mcf annually.

As in the case of Midwestern, East Tennessee states in its application for rehearing that it has received permission from the Internal Revenue Service to revert to liberalized depreciation for the 1966 tax year upon the acceptance of certain conditions. As brought out in the Opinion, the only reason for not ordering the rate reduction prior to January 1, 1967, was our belief that, under Internal Revenue Service rulings, this was the earliest date possible for the reversion. Subject to the unspecified conditions attached by the Internal Revenue Service, the basis for the selection of the January 1, 1967 date may now have been vitiated. If so, and if East Tennessee does in fact file its final 1966 tax return using liberalized depreciation,[5] it should be required under the Opinion to flow-through the difference to its customers. This matter will be left open for the present pending the final determination of whether the 1966 taxes are computed on an accelerated or straight-line basis. A copy of the Internal Revenue Service ruling should be provided the Commission by East Tennessee.

The applications for rehearing filed by NGPL and INGAA are, essentially restatements of their previous arguments. We find nothing in these filings requiring a detailed re-examination.

As noted above, both Midwestern and East Tennessee have asked for an extension in the filing requirements of the order accompanying Opinion No. 497. The time requested is 30 days after the order on rehearing. We believe the time requested by Midwestern should be granted. As to East Tennessee, the company will be permitted a period of 30 days after Commission approval of any proposed revisions to Appendices C and D as may be forthcoming within which to submit the substitute tariff sheets required by our order.

The Commission further finds:

The assignments of error and grounds for rehearing set forth in the applications for rehearing filed by Natural Gas Pipeline Company of America on August 11, 1966, by East Tennessee Natural Gas Company and Midwestern Gas Transmission Company on August 12, 1966, and by the City of Chicago and the Independent Natural Gas Association of America on August 15, 1966, present no new facts or legal principles which would warrant any change or modification in the Commission's Opinion No. 497 and order except as specified below.

The Commission orders:

(A) Not later than October 3, 1966, East Tennessee shall file any proposed revisions to Appendices C and D of Opinion No. 497 with the Commission for its approval. The revised calculation shall be prepared in accordance with the Opinion and shall reflect not less than a 4 percent average annual growth rate. Copies of any proposal so made also shall be served on the other parties to this proceeding. Any party wishing to comment thereon shall submit a statement to the Commission and the other parties not later than October 17, 1966.

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[5] East Tennessee states that "it does not intend to use liberalized depreciation in 1966 and in the future unless compelled to do so by an order of the Commission which becomes final."

(B) Final decision is reserved on the effective date of the use of the liberalized depreciation method in the computation of East Tennessee's tax costs for ratemaking purposes. In any event, such date shall not be prior to July 15, 1966.

(C) The time limitations specified in paragraphs (A) and (B) of the order accompanying Opinion No. 497 are extended with regard to Midwestern for a period of 30 days after the date of issuance of this order. With regard to East Tennessee, the time specified in paragraph (A) shall extend for a period of 30 days after Commission approval of any revisions to Appendices C and D accompanying Opinion No. 497.

(D) In all other respects, the applications for rehearing filed in this proceeding are denied.

Commissioner O'Connor *dissenting.*

Commissioner Bagge *dissenting* for the reasons set forth in his statement accompanying Opinion No. 497 issued July 15, 1966, 36 FPC at p. 91.

O'CONNOR, *Commissioner, dissenting:*

I would grant rehearing for the reasons stated in my dissent, 36 FPC at p. 89 to the initial opinion in the hope that in so doing the majority would more fully consider and reverse its erroneous decision. Since rehearing is not to be granted, there are two further issues upon which I am compelled to comment.

The majority states in its order denying rehearing (p. 600) that, "It is clear that where we conclude that use of liberalized depreciation will result in a tax saving, this conclusion will apply to *all eligible property* whether the company has taken liberalized depreciation thereon." [emphasis added] It is difficult to discern from this vague language whether the majority is implying a repudiation of the *United* and *Wisconsin Michigan* cases wherein a unanimous Commission declined to force those companies to take liberalized depreciation. I should hope that no such implication is intended, but rather that those two opinions would remain unimpaired so that in the future, if the problems they represented are again directly before us, the Commission would adhere to the philosophy of those cases, and abide by their precedents. If, however, the Commission is repudiating those cases, then it is in fact taking the third step to which I referred in my dissenting statement (p. 89) regarding the forcing of a company never having utilized liberalized depreciation to do so. To this course, I would most vigorously dissent.

Through use of its plethora of recondite figures and a reliance on speculative projections and tables reflecting alleged "tax savings" to be realized as a result of using liberalized depreciation, the majority indicates that the companies will be paying less taxes under liberalized than straight-line depreciation. An example is to be found in footnote 19, p. 71, of the majority's opinion.

"The Statistics for Interstate Natural Gas Pipeline Companies reveal that $47,850,000 in deferred tax monies was accrued by all Class A and B pipelines in the year 1963. This amount, if flowed-through to the consumers in 1963, would have resulted in an industry-wide rate reduction of approximately $100 million."

It follows, therefore, that the reduced taxes which would have been payable to the Treasury will have to be made up in some other way and it takes very little imagination to figure who will ultimately bear the burden of making up the difference. In the regulated utility industry, the consumer and taxpayer are one and the same, a fact not dealt with by the majority. Consequently, the alleged "savings" are not so attractive as they might seem under the persuasion of the majority's opinion.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

POWER SYSTEM STATEMENTS — MISCELLANEOUS AMENDMENTS TO F.P.C. FORMS NOS. 12, 12-A, 12-D, DOCKET NO. R-289

ORDER NO. 312-A

AMENDING § 141.51 OF THE COMMISSION'S REGULATIONS

(Issued September 9, 1966) *

Order No. 312, issued in this proceeding on December 20, 1965 (34 FPC 1499, 30 F.R. 16106), among other things, amended the Annual Report Form No. 12 by revising certain existing schedules and adding a new schedule. The list of schedules contained in the form which appears in paragraph (c) of § 141.51 of the regulations should have been amended so as to correctly list the current contents of the report form. We are here supplying the inadvertent omission.

The Commission finds:

Notice of this amendment prior to adoption is unnecessary and good cause exists for making it effective immediately.

The Commission, acting pursuant to the provisions of section 309 of the Federal Power Act as amended, (49 Stat. 858; 16 U.S.C. 825h), *orders:*

(A) Paragraph (c) of §141.51, Part 141, Subchapter D, Chapter I of Title 18 of the Code of Federal Regulations, is revised by changing item 4 in the list of schedules to read "4. Conventional hydroelectric plant data." and adding a new item 4-A to read "4-A. Pumped storage plant data."

(B) The revisions here adopted shall be effective upon the issuance of this order.

(C) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

OPINION NO. 465-A

RUMFORD FALLS POWER COMPANY, PROJECT NO. 2333

MEMORANDUM OPINION ON REMAND

(Issued September 9, 1966)

Syllabus

1. Article 31 contemplates that when water rights needed for a joint use are owned by some entity other than licensee or by licensee for nonproject uses, the joint user secure necessary water rights under state law or

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*Published in the Federal Register on September 16, 1966 (31 F.R. 12098).

interstate compact; it does not require that in every case person must have the rights *before* application is filed and Commission acts thereon. P. 607.

2. From its context in Federal Power Act, it appears that phrase "beneficial public uses" does not mean that uses must be by public agencies. P. 608.
3. Joint use is a public use if it has a public benefit; it has a public benefit if it is consistent with a comprehensive plan for development of the waterway—thus, use of a project reservoir for cooling water for a steam electric plant could be a public use even though plant belonged to privately owned utility. P. 608.
4. Commission objective in Article 31 is to provide some continuing control of water resources with respect to policy for future use of project properties which may enhance optimum utilization of water-way while carefully safeguarding licensee's interest in his development. P. 608.
5. Article 31 specifically states that licensee will be compensated by joint user and order makes clear that compensation will be at least sufficient to prevent an adverse effect on economics of development—consequently phrase "consistent with primary objective of the project" is deleted as unnecessary. P. 608.
6. Standard of compensation respecting joint use of project property discussed; Commission intends that licensee at least be made whole for any damages or expenses incurred by joint use. PP. 608, 609.
7. Article 31 (relating to multiple uses of project works for water supply purposes) is not intended to supersede, wholly or partially, any other condition or provision in licenses in which it is included. P. 609.
8. Upon remand, Commission *modifies* Article 31 of the license.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, David S. Black and Carl E. Bagge.

Ross, *Commissioner:*

This proceeding, which is before the Commission on remand from the First Circuit, is to clarify Article 31 of the license for the Rumford Falls Power Company's hydroelectric development, Project No. 2333, on the Androscoggin River at Rumford, Maine. We issued the order granting license on May 14, 1965, 33 FPC 1016. Applying for rehearing, Rumford Falls contended that Article 31 was unauthorized by statute, was unreasonable and arbitrary, and violated due process. We denied the application in Opinion No. 465 on July 12, 1965, 34 FPC 27. On review the First Circuit found that the article was unclear in a number of respects, and it remanded "for clarification, either by revision of the article itself, or by way of an opinion responsive to the questions * * * raised * * *" *Rumford Falls Power Co.* v. *F.P.C.*, 355 F. 2d 683 (1966) at page 688.

Article 31, as it appears in the order issuing license, reads:

> On the application of any person, association, corporation, Federal agency, State or municipality, the Licensee shall, after notice and opportunity for hearing, permit such reasonable use of its reservoirs or other project works or parts thereof as may be ordered by the Commission in the interest of comprehensive development of the waterway or waterways involved and the conservation and utilization of water resources of the region for water supply for steam-electric, irrigation, industrial, municipal or similar purposes, consistent with the primary objective of the project. The Licensee shall receive such reasonable compensation as may be appropriate for use of its reservoirs or other project works or parts

> thereof for such purposes, any such compensation to be fixed either by Commission approval of an agreement between the Licensee and the party or parties benefiting or by the Commission in the event the parties are unable to agree. Applications shall contain information in sufficient detail to afford a full understanding of the proposed use, including satisfactory evidence that the applicant possesses necessary water rights pursuant to applicable State law, or a showing of cause why such evidence cannot be submitted, and a statement as to the relationship of the proposed use to any State or municipal plans or orders which may have been adopted with respect to the use of such waters.

The court said that this language raised four questions which required answers before it could reach the issue of the article's validity.

(1) Does a person, in order to apply for joint use of a reservoir or other property in a licensed project, have to possess necessary state water rights? The question arises because Article 31 provides that an applicant for joint use of project property, as an alternative to submitting evidence that he has such rights, may show cause why the evidence cannot be submitted.

Article 31 contemplates that when water rights needed for a joint use are owned by some entity other than the licensee or by the licensee for nonproject uses, such as for industrial processing, the joint user secure the necessary water rights under state law or interstate compact. The article does not require, however, that in every case the person must have the rights *before* he files the application or the Commission acts on it. If the joint user has the capacity to obtain the rights and the intention to do so, it may be sufficient that he so aver. This makes it possible for the applicant to proceed simultaneously in securing permission to make joint use of project property and in obtaining necessary water rights. It also resolves the difficulty, which an applicant may face in some states, of having to be able to put the water to beneficial use before being able to obtain rights in it. If the Commission were to grant an application to make joint use before the applicant had the necessary water rights, the grant would be made subject to his perfecting these rights.

When the water rights which the joint user seeks to employ are owned by the licensee for project use, the Commission can require the licensee to permit their use under the article, as it can require him to permit the use of other project property. We do not, however, intend to require a licensee to obtain water rights (or, for that matter, other property rights) to permit their use by a third party under Article 31.

Unless a person is a licensee, he does not have the benefit of the power of eminent domain conferred by Section 21 of the Act (16 U.S.C. 814). If he must obtain rights in water or realty for the joint use from persons other than the licensee, he must do it under state law (or, possibly in a few water rights situations, under interstate compact). The same is true if he must obtain rights from the licensee which are not for project use.

The Commission has authority to require joint use irrespective of state law for the purpose of protecting life, health, or property. See Section 10(c) of the Act (16 U.S.C. 803(c)) and the standard license article adopted pursuant to it (Article 6 of Form L-3 (32 FPC 1115)). Joint use for such purpose, it is noted, could be required either with or without compensation.

(2) May the joint use of project property be for private, nonmunicipal uses? The question arises because Section 10(a) of the Federal Power Act requires that the Commission in licensing a project find that it "will be best

adapted * * * for * * * beneficial *public* uses" (16 U.S.C. 803(a)). [Emphasis added.]

It appears from its context in the Act that the phrase "beneficial public uses" does not mean that the uses must be by public agencies. Section 10(a) specifies that one beneficial public use is "waterpower development," which, pursuant to the Act, may be undertaken by either private or state entities. See Section 4(e) of the Act, which authorizes the Commission "To issue licenses to citizens of the United States, or to any association of such citizens, or to any corporation organized under the laws of the United States or any State thereof, or to any State or municipality" (16 U.S.C. 797(e)). In our view, a joint use is a public use if it has a public benefit, and it has a public benefit if it is consistent with a comprehensive plan for development of the waterway. Thus, the use of a project reservoir for cooling water for a steam-electric plant could be a public use even though the steam plant belonged to a privately owned utility.

(3) May the joint use in any way adversely affect the licensee's operation of the project for power? Article 31 provides that the joint use must be "consistent with the primary objective of the project." The Court noted at page 687 of its opinion that the clause could be interpreted to mean that the Commission is "limited only to what it might determine to be a reasonable consistency." However, as noted by the Court at pages 686 and 687 and in note 4, the brief for the Commission before the court interpreted this clause as meaning that the joint use could not impair in any way the licensee's power operations at the project.

Rapid changes in the technology of power production and in the relative urgency of the need for water for various uses make it impossible to foretell with assurance, when a license is issued, what will be the best use of the water resource throughout the next fifty years, the usual term of a license. In these circumstances, some continuing control to promote comprehensive development is necessary. Our objective in Article 31 is to provide such control with respect to policy for future use of project properties for water supply which may enhance optimum utilization of water-way while carefully safeguarding the licensee's interest in his development.

We did not intend, by using the phrase "consistent with the primary objective of the project," that a joint use which would contribute to comprehensive development of the waterway would be precluded simply because it might impair, to some degree, the power operations of the development. The phrase, or a variation of it, has been used in a number of license provisions under which the licensee may be required to assume some future obligations, but without compensation. See, for example, Article 15 of the license for the Rumford Falls development, which is the Commission's standard article on facilities for fish and wildlife protection (32 FPC 1116). But Article 31 is not such a provision. It specifically states that the licensee will be compensated by the joint user, and in this order, we make clear that the compensation will be at least sufficient to prevent an adverse effect by the authorized joint use on the economics of the development. Consequently, upon further consideration, we conclude that the phrase "consistent with the primary objective of the project" is unnecessary, and we delete it.

(4) What is the standard of compensation? Article 31 provides that the licensee shall receive "such reasonable compensation as may be appropriate." The Commission orders had given no real indication as to the nature of any compensation contemplated or the standards intended to be applied.

It is our intention that the licensee at least be made whole for any damages or expenses which the joint use causes him to incur.

Suppose, for example, that the joint use results in an impairment in the licensee's power operations. Typically, the Commission's licensees are electric utilities having multiple generating stations and interconnections with other systems, and if power is not produced at the licensed project, it can be produced at another station or purchased from another utility. When, as in the present case, the licensee has only one generating source, it can presumably purchase power from the electric utility servicing the area. The annual compensation for the power impairment would be the annual additional cost of obtaining the power from an alternate source.

Similarly, if new project structures are needed because of the joint use, or if existing project works have to be modified, the compensation would include the construction cost, with an adjustment to take account of any additional value which they might have to the licensee.

In some circumstances, it might be appropriate for a joint user to make a payment in addition to damages or expenses incurred by the licensee. An example might be when an electric utility proposes to use another utility's project reservoir for cooling water for a steam-electric plant. Such use could result in considerable savings to the joint user. It seems doubtful to us that the joint user should be the exclusive beneficiary of the savings. We believe that he might properly be required to make a payment in addition to the licensee's damages and expenses.

We also wish to make clear that we do not intend that Article 31 supersede, wholly or partially, any other condition or provision in licenses in which it is included.

Where it appears appropriate, we modify Article 31 in accord with the above discussion.

The Commission finds:

It is appropriate and in the public interest in administering Part I of the Federal Power Act, particularly Sections 10(a) and 10(g) thereof (16 U.S.C. 803(a), 803(g)), that Article 31 of the license order of May 14, 1965, for the Rumford Falls Power Company's Project No. 2333 be modified as hereinafter provided.

The Commission orders:

Article 31 of the license order of May 14, 1965, for the Rumford Falls Power Company's Project No. 2333 is hereby modified to provide as follows:

> On the application of any person, association, corporation, Federal agency, State or municipality, the Licensee shall, after notice and opportunity for hearing, permit such reasonable use of its reservoirs or other project properties, including works, lands and water rights, or parts thereof, as may be ordered by the Commission in the interest of comprehensive development of the waterway or waterways involved and the conservation and utilization of water resources of the region, for water supply for the purpose of steam-electric, irrigation, industrial, municipal or similar uses. The Licensee shall receive reasonable compensation, at least full reimbursement for any damages or expenses which the joint use causes him to incur, for use of its reservoirs or other project properties or parts thereof for such purposes, any such compensation to be fixed by the Commission either by approval of an agreement between the Licensee and the party or parties benefiting or after notice and op-

portunity for hearing. Applications shall contain information in sufficient detail to afford a full understanding of the proposed use, including satisfactory evidence that the applicant possess necessary water rights pursuant to applicable State law, or a showing of cause why such evidence cannot be concurrently submitted, and a statement as to the relationship of the proposed use to any State or municipal plans or orders which may have been adopted with respect to the use of such waters.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross and Carl E. Bagge.

TRANSCONTINENTAL GAS PIPE LINE CORPORATION, DOCKET NO. CP64-270; SOUTHERN NATURAL GAS COMPANY, CP64-314; CITY OF BUFORD, GEORGIA, CP65-11, CP65-20; CITY OF SUGAR HILL, GEORGIA, CP65-10, CP65-19; CITY OF AUSTELL, GEORGIA, CP65-74

FINDINGS AND ORDER OMITTING INTERMEDIATE DECISION PROCEDURE, GRANTING IN PART AND DENYING IN PART APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND GRANTING AND DENYING APPLICATIONS PURSUANT TO SECTION 7(a)

(Issued September 9, 1966)

By Opinion No. 493, issued June 8, 1966, in Docket No. CP64-270, *et al.*, 35 FPC 917, the Commission, *inter alia*, remanded for further proceedings the mutually exclusive competitive proposals of Transcontinental Gas Pipe Line Corporation (Transco) in Docket No. CP64-270, and Southern Natural Gas Company (Southern) in Docket No. CP64-314 for the delivery of additional gas to Atlanta Gas Light Company (Atlanta Gas) in the Atlanta market area. We further indicated, among other things, (1) that the record was inadequate to support certification of the Transco proposal and (2) the type of proposal we felt would be in the public interest for service to Atlanta. In view of the remand of the above proposals, action on the applications of City of Buford, Georgia in Docket Nos. CP64-11 and CP65-20, City of Sugar Hill, Georgia in Docket Nos. CP65-10 and CP65-19, and City of Austell, Georgia in Docket No. CP65-74 for orders directing service under Section 7(a) of the Natural Gas Act (Act) was also deferred.

On August 1, 1966, Transco filed its second amendment to its application in Docket No. CP64-270 in which it proposes to construct 36.75 miles of 16-inch pipeline and 17.72 miles of 12-inch pipeline from a point on its main line near Monroe, Georgia, extending to Ball Ground, Georgia, together with 3 new sales meter and regulator stations for the purpose of delivering 40,000 Mcf per day to Atlanta Gas. These facilities are in lieu of the more costly 20-inch pipeline facilities originally proposed by Transco for the delivery of gas to Atlanta Gas. Transco also proposes the same main line and gathering facilities as proposed in its first amendment to the application in said Docket No. CP64-270, namely, 22.17 miles of 36-inch main line loops and 35.09 miles of 30-inch loop lines along Transco's southeast Louisiana gathering system.

Pursuant to said Opinion No. 493, the Presiding Examiner by notice issued August 8, 1966, convened a hearing on August 25, 1966. At said hearing, the parties presented evidence with respect to proposals which (1) are not mutually exclusive, (2) permit a resolution of the issues in these remanded proceedings consistent with our findings in Opinion Nos. 493, *supra*, and 493–A, 36 FPC 335, and (3) render the required services to Atlanta Gas and to all of the 7(a) applicants. Transco's second amendment to its application, and appended exhibits, whereby Transco proposes to construct the facilities heretofore described and render service of 40,000 Mcf per day to Atlanta Gas, were received in evidence. Southern introduced exhibits whereby it proposes to sell 10,000 Mcf per day of gas to Atlanta Gas, pursuant to a letter agreement between the parties dated August 24, 1966. However, it now seeks to construct and operate approximately 23 miles of 14-inch line on the proposed North Atlanta Line route, instead of the more costly 45.5 miles of 16-inch line proposed originally, terminating such line in the vicinity of Marietta, Georgia. In addition, Southern proposes to serve the City of Austell, Georgia, from such pipeline as requested by Austell in Docket No. CP65–74.

The total estimated cost of the facilities proposed by Transco in its second amended application, including its main line loops and gathering facilities, is $12,709,000, of which $3,407,806 represents the estimated cost of the Monroe to Ball Ground extension and the 3 meter stations. The estimated cost of Southern's proposed pipeline to Marietta, including a measuring station at Marietta, Georgia, for the delivery of gas to Atlanta Gas and a measuring station at Austell for the delivery of gas to Austell, is $1,663,810 as opposed to an estimated $3,168,241 for its original project. Based on the evidence introduced by the applicants, each of said projects is economically feasible and can be financed. Atlanta Gas has now, unlike its showing on the original record,[1] clarified and identified its market requirements in the Atlanta Area.

In Docket Nos. CP65–11 and CP65–10, respectively, Buford and Sugar Hill (existing customers of Transco) request a new delivery point from Transco on the proposed Monroe-Ball Ground line. In the alternative, in Docket Nos. CP65–20 and CP65–19, respectively, the cities request a supply of gas from Southern. In view of our action authorizing Transco to construct and operate the proposed Monroe-Ball Ground line, and Transco's consent to the said new delivery point, the applications in CP65–11 and CP65–10 should be granted and the alternative applications in CP65–20 and CP65–19 should be denied.

Austell's Section 7(a) application against Southern in Docket No. CP65–74 requests that Southern provide Austell with an additional delivery point on Southern's proposed pipeline to Marietta. Southern has consented to Austell's application. In view of our action authorizing Southern to construct and operate its proposed pipeline to Marietta, the application of Austell in Docket No. CP65–74 should be granted.

At the conclusion of the hearing held on August 25, 1966, staff counsel in behalf of the staff and all other parties requested waiver of the intermediate decision procedure. The Examiner thereupon certified the record to the Commission.

Upon consideration of the entire record in this proceeding, the Commission *finds:*

(1) Due and timely execution of the Commission's functions imperatively and unavoidably require the omission of the intermediate decision procedure in these proceedings.

(2) Transcontinental Gas Pipe Line Corporation and Southern Natural Gas Company are engaged in the transportation of natural gas in interstate com-

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[1] See Opinion No. 493, 35 FPC at p. 926.

merce and in the sale in interstate commerce of natural gas for resale and ultimate public consumption and each is, therefore, a "natural-gas company" within the meaning of the Natural Gas Act.

(3) The facilities which Transco proposes to construct and operate, as described herein and as more fully described in its second amendment to the application in Docket No. CP64–270, and the facilities which Southern proposes to construct and operate, as described herein and as more fully described in its revised exhibits in the remanded proceeding, will be used in the transportation and sale of natural gas in interstate commerce for resale, subject to the jurisdiction of the Commission, and the construction and operation of such facilities are subject to the requirements of subsections (c) and (e) of Section 7 of the Natural Gas Act.

(4) Transco and Southern are each able and willing properly to do all the acts and to make the sales and perform the services proposed by each, and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(5) The construction and operation of the facilities proposed by Transco and Southern are (1) not mutually exclusive, (2) required by the public convenience and necessity and (3) supported by the market estimates of Atlanta Gas. Certificates therefor should be issued as hereinafter ordered and conditioned.

(6) No undue burden will be placed on Transco and it is necessary and in the public interest that Transco be directed to establish connection with the Cities of Buford and Sugar Hill, Georgia, from its Monroe-Ball Ground pipeline, as requested by said cities in Docket Nos. CP65–11 and CP65–10, respectively; the applications of said cities in Docket Nos. CP65–20 and CP65–19 should be denied.

(7) No undue burden will be placed on Southern and it is necessary and in the public interest that Southern be directed to establish connection with the City of Austell, Georgia, from its pipeline to Marietta as requested by Austell in Docket No. CP65–74.

(8) The public convenience and necessity require that the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4) and (e) of Section 157.20 of the Commission's Regulations under the Act shall attach to the certificates herein issued to Transco and Southern and to the exercise of the rights granted thereunder, and that the time within which the facilities authorized by this order shall be constructed and placed in actual operations shall be fixed at six months from the date of issuance of the order herein.

The Commission orders:

(A) A certificate of public convenience and necessity is hereby issued to Transcontinental Gas Pipe Line Corporation, upon the terms and conditions of this order, authorizing Transco to construct and operate the facilities hereinbefore described, as more fully described in its second amendment to application in Docket No. CP64–270, and to sell and deliver to Atlanta Gas Light Company a volume of 40,000 Mcf per day under Transco's Rate Schedule CD–1, inclusive of the 15,000 Mcf per day heretofore temporarily authorized in said docket.

(B) A certificate of public convenience and necessity is hereby issued to Southern Natural Gas Company, upon the terms and conditions of this order, authorizing Southern to construct and operate the facilities and to render the service to Atlanta Gas Light Company as hereinbefore described, and as more fully described in its exhibits in the remanded proceeding. Certification of the facilities proposed by Southern in Docket No. CP64–314 which are not specifically authorized herein or have not been heretofore authorized in Opinion Nos. 493 and 493–A, issued June 8, 1966, and July 29, 1966, respectively, is hereby denied.

(C) The applications of the Cities of Buford, Sugar Hill and Austell, Georgia, in Docket Nos. CP65–11, CP65–10, and CP65–74, respectively, are hereby granted. The applications of the Cities of Buford and Sugar Hill, Georgia, in Docket Nos. CP65–20 and CP65–19, respectively, are hereby denied.

(D) The certificates issued by paragraphs (A) and (B) above and the rights granted thereunder are conditioned upon compliance by the applicants with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4) and (e) of Section 157.20 of such Regulations.

(E) The facilities authorized in paragraphs (A) and (B) above shall be completed and placed in actual operation within six months from the date of this order.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross and Carl E. Bagge.

COLORADO INTERSTATE GAS COMPANY, DOCKET NO. CP61–143; NATURAL GAS PIPELINE COMPANY OF AMERICA, CP61–149; ARKANSAS LOUISIANA GAS COMPANY, CP61–163

ORDER FURTHER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND ACCEPTING TARIFF SHEETS FOR FILING

(Issued September 12, 1966)

Colorado Interstate Gas Company (Colorado Interstate) on June 27, 1966, Natural Gas Pipeline Company of America (Natural) on June 24, 1966, Arkansas Louisiana Gas Company (Arkansas Louisiana) on June 17, 1966, and supplemented on July 29, 1966, filed in the above-designated dockets their respective applications to further amend an order of the Commission issued on January 3, 1963, in Docket No. CP61–143, *et al.*, 29 FPC 8, and amended December 30, 1963, 30 FPC 1615, June 2, 1964, 31 FPC 1332, and May 25, 1965, 33 FPC 1065, which order and amendments authorized (1) construction and operation of certain facilities, (2) the exchange of natural gas between Natural and Colorado Interstate and (3) the sale to Arkansas Louisiana limited in duration to May 1, 1966, all as more fully set forth in their respective applications.

Colorado Interstate, Natural, and Arkansas Louisiana seek to amend the order issuing certificates of public convenience and necessity in the above dockets so as to extend the short-term interruptible sale and exchange of natural gas authorized therein to May 1, 1967 from the present expiration date of May 1, 1966. In addition to the requested extension of duration of the exchange period and short-term interruptible sale, Colorado Interstate and Natural seek authorization to change the delivery point for said sale and exchange from Texas County, Oklahoma to Beaver County, Oklahoma.

The order of the Commission issued January 3, 1963, as amended December 30, 1963, June 2, 1964, and May 25, 1965 in the subject dockets authorized Colorado Interstate to sell up to 35,000 Mcf of natural gas daily to Arkansas Louisiana from the Mocane Laverne area in the Oklahoma Panhandle area on a short-term interruptible basis and the exchange of equivalent volumes of natural gas between Colorado Interstate and Natural in order to effect said sale. Deliveries are made to Arkansas Louisiana by Natural at a point in Grady County, Oklahoma for the account of Colorado Interstate, and equivalent volumes are delivered by Colorado Interstate to Natural at an interconnection between their two systems in Texas County, Oklahoma.

Colorado Interstate and Natural state that by letter agreement dated April 22, 1966, Colorado Interstate and Arkansas Louisiana have amended the exchange agreement to extend the term thereof to May 1, 1967. Colorado Interstate and Natural further state that the exchange agreement has also been amended to change the point of delivery of exchange gas to be delivered to Natural by Colorado Interstate from the previous location at Natural's Compressor Station No. 101, Texas County, Oklahoma, to a new point of delivery in Beaver County, Oklahoma, at which point Colorado Interstate will sell and deliver gas to Natural, pursuant to Colorado Interstate's rate schedule H-1. Authorization for the required facilities was issued June 13, 1966, 35 FPC 979, to Colorado Interstate and Natural by orders issued in Docket Nos. CP66-316 and CP66-318, respectively.

The petitions to amend of Colorado Interstate and Natural states that the redelivery point of the exchange gas by Natural to Arkansas Louisiana, for the account of Colorado Interstate will continue to be made at the existing point of delivery in Grady County, Oklahoma.

Colorado Interstate states in the instant petition that its applicable rate schedule has been revised (Revised Rate Schedule X-12) and filed concurrently herewith, which revised rate schedule calls for a price of 18.0 cents per Mcf for gas sold by Colorado Interstate to Arkansas Louisiana. The gas sold by Colorado Interstate is delivered to Natural and redelivered by Natural to Arkansas Louisiana pursuant to Colorado Interstate's Rate Schedule X-14.

Arkansas Louisiana states that the purpose of the instant filing is to amend its certificate, as heretofore amended, in Docket No. CP61-163:

(1) to extend the term of Arkansas Louisiana's authorization to 12:01 a.m., May 1, 1967,

(2) to increase during the period September 1, 1966, through April 30, 1967, the daily average deliveries from 10,000 Mcf to 18,000 Mcf,

(3) to increase during the period September 1, 1966, through April 30, 1967, the daily minimum deliveries from 8,000 Mcf to 10,000 Mcf, and

(4) to increase the price of all gas delivered after April 30, 1966, from 14.5 cents to 18.0 cents per Mcf.

Natural filed revised tariff sheets[1] to its exchange Rate Schedule X-8 reflecting extension of term to May 1, 1967, and change in point of receipt of gas from Colorado Interstate to Beaver County, Oklahoma.

Colorado Interstate filed revised tariff sheets to its Rate Schedule X-12[2] providing for the following changes for the sale to Arkansas Louisiana:

(1) During the period September 1, 1966, through April 30, 1967, Arkansas Louisiana shall take-or-pay for an average daily quantity of 18,000 Mcf instead of the present quantity of 10,000 Mcf. Reduced by the amount

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[1] Rate Schedule X-8, to Natural's FPC Tariff, Second Revised Volume No. 2. Fourth Revised Sheet No. 32; Sixth Revised Sheet Nos. 33 and 34; Original Sheet No. 33A.

[2] Rate Schedules X-12, to Colorado Interstate's FPC Gas Tariff, Second Revised Volume No. 2.

Seventh Revised Sheet No. 38; Fifth Revised Sheet No. 39; Fourth Revised Sheet No. 39A; Second Revised Sheet No. 39B; Original Sheet No. 39C.

of curtailment in the event Colorado Interstate is unable to deliver the above quantity.

(2) Minimum deliveries shall be 10,000 Mcf instead of 8,000 Mcf per day.

(3) The contract term is extended for another year to May 1, 1967.

(4) The price of all gas delivered under the new contract term shall be 18.0 cents per Mcf instead of the old price of 14.5 cents per Mcf.

Colorado Interstate filed also revised tariff sheets to its exchange Rate Schedule X-14[3] reflecting extension of term to May 1, 1967, and change of delivery point to Beaver County, Oklahoma.

Due notice of the subject petitions to amend and opportunity for hearing has been given by publication in the Federal Register on July 19, 1966 (31 F.R. 9761) in Docket No. CP61-143; on July 19, 1966 (31 F.R. 9761) in Docket No. CP61-149; and July 2, 1966 (31 F.R. 9142) in Docket No. CP61-163. No protest, petition to intervene, notice of intervention or request for hearing has been filed concerning this amendment.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act, and the public convenience and necessity require (1) that the Commission's order issued on January 3, 1963, in Docket No. CP61-143, and amended on December 30, 1963, June 2, 1964, and May 25, 1965, be further amended, as requested by Colorado Interstate, Natural and Arkansas Louisiana in their respective petitions to amend, so as to (a) extend the period of authorization for the short-term interruptible sale and exchange of natural gas authorized in the Commission's order issued January 3, 1963, from May 1, 1966, to May 1, 1967, and (b) authorize requested changes with respect thereto and (c) change the delivery point for said sale and exchange from a point in Texas County, Oklahoma, to a new point in Beaver County, Oklahoma, and (2) accept for filing the revised tariff sheets filed by Colorado Interstate on June 27, 1966, and on July 7, 1966; and by Natural on June 27, 1966 to become effective on the date of issuance of this order.

The Commission orders:

(A) The Commission's order issued on January 3, 1963, in Docket No. CP61-143, *et al.*, and amended on December 30, 1963, June 2, 1964, and May 25, 1965, be further amended, as requested by Colorado Interstate, Natural, and Arkansas Louisiana in their respective petitions to amend, so as to (1) extend the period of authorization for the short-term interruptible sale and exchange of natural gas authorized in the Commission's order issued January 3, 1963, from May 1, 1966, to May 1, 1967, (2) authorize requested changes with respect thereto and (3) change the delivery point for said sale and exchange from a point in Texas County, Oklahoma, to a new point in Beaver County, Oklahoma, and (4) accept for filing the revised tariff sheets filed by Colorado Interstate on June 27, 1966[4], and on July 7, 1966[5]; and by

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[3] Rate Schedule X-14, to Colorado Interstate's FPC Gas Tariff, Second Revised Volume No. 2: Third Revised Sheet No. 47; Sixth Revised Sheet No. 49; First Revised Sheet Nos. 50 and 51.

[4] Rate Schedules X-12 and X-14, to Colorado Interstate's FPC Gas Tariff, Second Revised Volume No. 2.
Seventh Revised Sheet No. 38; Fifth Revised Sheet No. 39; Fourth Revised Sheet No. 39A; Second Revised Sheet No. 39B; Original Sheet No. 39C; Third Revised Sheet No. 47; Sixth Revised Sheet No. 49; First Revised Sheet Nos. 50 and 51.

[5] Rate Schedule X-14, to Colorado Interstate's FPC Gas Tariff, Second Revised Volume No. 2; Third Revised Sheet No. 47 to replace Third Revised Sheet No. 47.

Natural on June 27, 1966[6] to become effective on the date of issuance of this order.

(B) In all other respects said orders shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross and Carl E. Bagge.

IDAHO POWER COMPANY, PROJECT NO. 1971

ORDER APPROVING PROJECT EXHIBIT L DRAWINGS

(Issued September 12, 1966)

On August 4, 1966, Idaho Power Company, licensee for Project No. 1971 in the Middle Snake River, filed for Commission approval, pursuant to provisions of the Commission's order issued January 28, 1966, 35 FPC 162, two Exhibit L drawings (FPC 1971-216 and 217) of facilities for passing upstream migrant salmonids at the Hells Canyon dam. The structure consists of a floating barge moored to the left (Oregon) shore abutment adjacent to the powerhouse, but free to follow fluctuations in tailwater, and includes pumps to provide jet attraction flows across the face of the powerhouse and trapping and holding flows in the trap, a fish entrance, a false weir leading into a hopper, and a jib crane to transfer the hopper with fish to trucks for transport to artificial propagation facilities or to other waters pursuant to the Commission's order of January 28, 1966.

By letter of July 29, 1966, from the Acting Program Director of the Columbia Fisheries Program Office, Bureau of Commercial Fisheries, prior approval of the drawings by the fishery agency technicians has been given subject to the development of detail design drawings. An engineer of the Columbia Fisheries Program Office was designated "coordinating engineer" for the Hells Canyon fish facilities in a letter from that office dated March 31, 1966.

The drawings have been reviewed by the Commission's staff and found adequate to pass the numbers of anadromous fish anticipated at the Hells Canyon development. Licensee shall continue to cooperate with the fishery agencies during the preparation of detail design drawings, construction and operation to ensure facilities best suited to function for the purpose designed.

The Commission finds:

The following Exhibit L drawings, designated as the Hells Canyon Development, Permanent Fish Facilities, conform to the Commission's rules and regulations and should be approved for construction, generally as shown, as part of Project No. 1971.

Title	*FPC No.*
General Arrangement	1971-216, and,
Trapping Barge—Plans and Sections	1971-217

The Commission orders:

The Exhibit L drawings described in the above finding are hereby approved for construction as part of Project No. 1971, generally as shown;

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[6] Rate Schedule X-8, to Natural's FPC Tariff, Second Revised Volume No. 2. Fourth Revised Sheet No. 32; Sixth Revised Sheet Nos. 33 and 34; Original Sheet No. 33A.

provided that the Licensee shall continue to cooperate with the fishery agencies during the preparation of detail design drawings, construction and operation; and provided further that nothing herein shall be construed as full compliance with the provisions of Article 35 of the license for Project No. 1971.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross and Carl E. Bagge.

MICHIGAN WISCONSIN PIPE LINE COMPANY, DOCKET NO. CP66-208

ORDER AMENDING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued September 12, 1966)

On July 25, 1966, Michigan Wisconsin Pipe Line Company (Petitioner) filed in Docket No. CP66-208 a petition to amend the order of the Commission issued in said docket on May 24, 1966, 35 FPC 777, requesting an increase in the Maximum Daily Quantity (MDQ) of natural gas to be delivered by Petitioner to Madison Gas and Electric Company, all as more fully set forth in the petition to amend.

The certificate of public convenience and necessity issued in the instant docket on May 24, 1966, authorized Petitioner to construct and operate certain natural gas facilities and to lease the Loreed Field, in west central Michigan, from Michigan Consolidated Gas Company in order to increase by 264,000 Mcf its daily system sales capacity and to sell and deliver additional gas to existing customers and to accommodate anticipated requests for service to new communities.

By the instant filing, Petitioner seeks authority to increase its natural gas delivery to Madison Gas by an additional 5,000 Mcf per day, or a total MDQ of 67,000 Mcf for the contract year commencing September 1, 1966.

No change in rate is proposed by Petitioner. The proposed service will be rendered pursuant to Petitioner's effective FPC Rate Schedule ACQ-1.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed herein.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the certificate of public convenience and necessity heretofore issued in Docket No. CP66-208 be amended as hereinafter ordered.

The Commission orders:

(A) The certificate of public convenience and necessity issued to Michigan Wisconsin Pipe Line Company by the Commission on May 24, 1966, in Docket No. CP66-208 is amended by authorizing an increase of 5,000 Mcf in the Maximum Daily Quantity of natural gas to be delivered to Madison Gas and Electric Company, as hereinbefore described and as more fully described in the petition to amend.

(B) In all other respects said certificate shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross and Carl E. Bagge.

ST. JOSEPH LIGHT & POWER COMPANY AND MICHIGAN WISCONSIN PIPE LINE COMPANY, DOCKET NO. CP66-417

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued September 12, 1966)

On June 16, 1966, St. Joseph Light & Power Company (Applicant), filed in Docket No. CP66-417 an application pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Michigan Wisconsin Pipe Line Company (Respondent) to establish physical connection of its transportation facilities with the facilities proposed to be constructed by Applicant and to sell and deliver to Applicant volumes of natural gas for resale and distribution in Craig, Missouri, all as more fully set forth in the application.

Applicant states that Craig, Missouri, is located approximately eight miles from Mound City, Missouri, and has a population of approximately 488. Applicant further states that there are 196 residences and 56 commercial establishments now located in Craig.

Applicant proposes to construct a new distribution system in Craig to provide natural gas service to the residences and commercial establishments of Craig for cooking, water heating, clothes drying, spaceheating, and other associated uses. Service to Craig will require approximately 660 feet of lateral construction, extending from Respondent's existing lateral pipeline to a proposed town border station. Applicant proposes that said lateral be constructed by Respondent pursuant to that Company's "10-cent formula".

The total estimated volumes of natural gas involved to meet Applicant's annual and peak day requirements for the initial three year period of proposed operations are stated to be:

	First year	Second year	Third year
Annual (Mcf)	15,200	18,600	21,000
Peak day (Mcf)	160	200	230

The total estimated cost of Applicant's proposed construction is $61,600, which cost will be financed by internally generated funds.

On May 5, 1966, the City of Craig, Missouri, granted Applicant a franchise to sell and distribute natural gas in said City. The Public Service Commission of the State of Missouri on August 11, 1966, granted Applicant a certificate authorizing the construction and operation of the necessary facilities and service to the public in the City of Craig, Missouri.

On July 5, 1966, Respondent filed an answer to the application stating that it has no objections to providing the proposed service. Respondent states that it can provide the requested service from existing sources of gas supply without the construction of additional main line facilities and will construct within the limits of the 10-cent formula, the requested 660 feet of lateral.

Due notice of the filing of the application and opportunity for hearing thereon was published in the Federal Register on July 2, 1966 (31 F.R. 9144). No protests, petition to intervene or notice of intervention has been filed.

The Commission finds:

(1) Respondent, Michigan Wisconsin Pipe Line Company, a Delaware corporation having its principal place of business in Detroit, Michigan, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of November 30, 1946, in Docket No. G–669 (5 FPC 953).

(2) Applicant is a public utility company in the State of Missouri and is authorized to construct and operate facilities to distribute and sell natural gas to inhabitants of the State of Missouri.

(3) It is necessary and desirable in the public interest that Respondent be directed to extend its lateral facilities 660 feet and establish physical connection of its transportation facilities with the facilities proposed by Applicant and to sell and deliver up to 230 Mcf of natural gas per day to Applicant as hereinbefore described and as more fully set forth in the application, as hereinafter ordered and conditioned.

(4) The requirement that Respondent serve Applicant, as requested, will not place an undue burden upon Respondent nor impair its ability to render adequate service to existing customers.

The Commission orders:

(A) Respondent is directed to extend its lateral facilities 660 feet and to establish physical connection of its natural gas transmission system with the facilities to be constructed by Applicant and to sell and deliver up to 230 Mcf of natural gas per day to Applicant, under a service agreement to be executed by Applicant with Michigan Wisconsin and filed by Michigan Wisconsin with the Commission in accordance with the Commission's Regulations, for transportation, distribution and resale as hereinbefore described. Such service shall be rendered pursuant to Michigan Wisconsin's presently filed appropriate rate schedule, all as hereinbefore described and as more fully described in the application.

(B) Applicant shall be prepared to receive natural gas from Respondent within one year from the date of this order.

(C) Respondent shall notify the Commission of the commencement of service within 10 days thereof.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross and Carl E. Bagge.

ST. JOSEPH LIGHT & POWER COMPANY AND MICHIGAN WISCONSIN PIPE LINE COMPANY, DOCKET NO. CP66–429

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued September 12, 1966)

On June 30, 1966, St. Joseph Light & Power Company (Applicant) filed in Docket No. CP66–429 an application pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Michigan Wisconsin Pipe Line Company (Respondent) to establish physical connection of its transportation facilities with the facilities proposed to be constructed by Applicant and to sell and deliver to Applicant volumes of natural gas for resale and distribution in the Village of Bigelow, Holt County, Missouri, all as more fully set forth in the application.

The Village of Bigelow, Missouri, is located approximately three miles from Mound City, Missouri, and has a population of approximately 100, 35 residences and 7 commercial establishments.

Applicant proposes to construct approximately 1,000 feet of 2-inch pipeline to connect Respondent's Oregon-Forest City lateral with Applicant's proposed Bigelow distribution system. Service to Bigelow will require no added construction on the part of Respondent, in that its existing facilities serving Forest City and Oregon will come within 1,000 feet of the corporate limits of Bigelow.

The total estimated volumes of natural gas necessary to meet Applicant's annual and peak day requirements for the initial three year period of proposed operations are stated to be:

	First year	Second year	Third year
Annual (Mcf)	3,800	4,500	5,100
Peak day (Mcf)	38	46	51

The total estimated cost of Applicant's proposed facilities is $16,850, which cost will be financed by internally generated funds.

In its answer filed August 4, 1966, Respondent, Michigan Wisconsin, stated it had no objection to providing the requested service.

After due notice, no protest, petition to intervene or notice of intervention has been filed herein.

The Commission finds:

(1) Respondent, Michigan Wisconsin Pipe Line Company, a Delaware corporation with its principal place of business in Detroit, Michigan, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of November 30, 1946, in Docket No. G-669 (5 FPC 953).

(2) Applicant, St. Joseph Light & Power Company, is legally authorized to construct and operate the necessary facilities and to engage in the local distribution of natural gas to the public, within the meaning of Section 7(a) of the Natural Gas Act.

(3) It is necessary and desirable in the public interest that Respondent be directed to establish physical connection of its natural gas transportation system with the proposed facilities of Applicant and to sell and deliver up to 51 Mcf of natural gas per day to Applicant, as set forth in the application and as hereinafter ordered and conditioned.

(4) This order should be conditioned upon Applicant's being prepared to receive natural gas from Respondent, as proposed, within one year from the date on which this order issues.

(5) The requirement that Respondent serve Applicant, as requested, will not place an undue burden upon Respondent nor impair its ability to render adequate service to existing customers.

The Commission orders:

(A) Respondent is directed to establish physical connection of its natural gas transmission system with the facilities to be constructed by Applicant and to sell and deliver up to 51 Mcf of natural gas per day to Applicant, all as hereinbefore described and as more fully described in the application.

(B) Applicant shall be prepared to receive natural gas from Respondent within one year from the date of this order.

(C) Respondent shall notify the Commission of the commencement of service within 10 days thereof.

(D) Respondent shall execute and file with the Commission a service agreement with Applicant in accordance with the Commission's Regulations.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross and Carl E. Bagge.

SHENANDOAH GAS COMPANY, DOCKET NO. CP66-428 AND ATLANTIC SEABOARD CORPORATION, DOCKET NO. CP67-2

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

(Issued September 12, 1966)

On June 28, 1966, Shenandoah Gas Company (Shenandoah) filed in Docket No. CP66-428 an application, as supplemented on July 12, 1966, pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities and the transportation of natural gas for resale and distribution in New Market, Shenandoah County, Virginia, the operation of relocated facilities, and the operation of facilities and the transportation of natural gas to four direct industrial customers, all as more fully set forth in the application.

On July 11, 1966, Atlantic Seaboard Corporation (Atlantic Seaboard) filed in Docket No. CP67-2 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities for the sale of natural gas to Shenandoah for resale and distribution in New Market, Virginia, all as more fully set forth in the application.

Shenandoah proposes to construct and operate approximately 7,250 feet of 2.375-inch O.D. lateral pipeline from Atlantic Seaboard's 24-inch pipeline to the distribution regulator in New Market, all in Shenandoah County, Virginia. Shenandoah also proposes to construct and operate metering and odorizing facilities near the tap on Atlantic Seaboard's pipeline. The estimated cost of the proposed pipeline and appurtenant facilities is $26,975, which will be financed with open account advances from Shenandoah's parent, Washington Gas Light Company.

Shenandoah has heretofore constructed and is operating without Commission authorization facilities for the direct sale of gas to Continental Clay Products Company, near Martinsburg, West Virginia; C. H. Musselman Company plant, now owned by Pet Milk Company, in Inwood, West Virginia; Corning Glass Works, near Inwood, West Virginia; and Minnesota Mining and Manufacturing Company, near Middleway, West Virginia. Shenandoah has installed 26,772 feet of 2, 3, 4 and 6-inch pipeline and appurtenant facilities at a cost of $116,961 to serve these customers. Shenandoah has replaced without Commission authorization 13,802 feet of 6-inch pipeline with 14,964 feet of 6, 8 and 12-inch pipeline near Stephens City and Middletown, Virginia, due to highway construction. The cost of the original facilities was $49,093, and the replacement cost was $187,630 with $149,234 reimbursement supplied by the Commonwealth of Virginia. Shenandoah requests authorization to continue operating these facilities.

In its application filed in Docket No. CP67-2 Atlantic Seaboard proposes to construct and operate measuring and regulating facilities to supply gas to Shenandoah for transportation to and for resale and distribution in New Market. The estimated cost of the proposed facilities is $2,650, to be financed with internally generated funds. Atlantic Seaboard will supply gas to Shenandoah to serve New Market pursuant to existing authorization. The estimated natural gas requirements to serve New Market for the first three years of operations are as follows:

	Mcf (1,025-Btu gas)	
	Peak day	Annual
Year:		
1	139	12,720
2	156	15,110
3	183	18,290

After due notice, no petition to intervene, notice of intervention or protest to the granting of the applications has been received.

At a hearing held on September 8, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications, as supplemented, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Shenandoah Gas Company, a Virginia corporation having its principal place of business in Washington, D.C., is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of April 30, 1954, in Docket No. G-1448 (13 FPC 593).

(2) Atlantic Seaboard Corporation, a Delaware corporation having its principal place of business in Charleston, West Virginia, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of March 16, 1943, in Docket No. G-284 (3 FPC 941).

(3) The facilities hereinbefore described, as more fully described in the applications in this proceeding, will be used in the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission, and the construction and operation thereof and the transportation of natural gas by Applicants are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(4) Applicants are able and willing properly to do the acts and to perform the service proposed and conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(5) The construction and operation of facilities and the transportation of natural gas by Applicants are required by the public convenience and necessity, and certificates therefor should be issued as hereinafter ordered and conditioned.

(6) The certificates issued hereinafter and the rights granted thereunder should be conditioned upon Applicants' compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) Certificates of public convenience and necessity are issued to Applicants authorizing the construction and operation of facilities, including those facilities heretofore constructed by Shenandoah and presently being operated without Commission authorization as described in the application in Docket No. CP66–428, and the transportation of natural gas as hereinbefore described and as more fully described in the applications in this proceeding, upon the terms and conditions of this order.

(B) The certificates issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicants' compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The construction of facilities authorized herein shall be completed and the transportation of natural gas shall commence, as provided by paragraph (b) of Section 157.20 of the Regulations under the Natural Gas Act, within one year from the date of this order.

(D) The certificate issued in Docket No. CP66–428 shall not entitle the industrial customers to whom firm deliveries are authorized therein to any priorities to additional gas for meeting any future increases in their requirements at the expense of firm resale customers desiring to acquire additional gas to meet any future increases in their requirements.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross and Carl E. Bagge.

TRANSCONTINENTAL GAS PIPE LINE CORPORATION, DOCKET NO. CP67–4 AND MARENGO CORPORATION, DOCKET NO. CP67–5

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

(Issued September 12, 1966)

On July 11, 1966, Transcontinental Gas Pipe Line Corporation (Transco) filed in Docket No. CP67–4 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the increase of its interruptible sales to Gulf States Paper Company (Gulf States) and to American Can Company (American Can)[1] as more fully set forth in the application.

Transco seeks authorization to transport and deliver 9,500 Mcf daily on an interruptible basis to Gulf States, an increase from the presently authorized maximum of 6,000 Mcf per day, and to American Can from the presently authorized maximum of 4,000 Mcf per day to a maximum of 10,000 Mcf per day.

By order issued August 16, 1957, in Docket No. G–12763 (18 FPC 182), Transco was authorized to transport and deliver gas in an amount up to 6,000 Mcf per day on an interruptible basis to Gulf States for use in the latter's paper mill in Marengo County, Alabama, and to deliver such gas to

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[1] Formerly Marathon Southern Corporation.

Marengo Corporation (Marengo) for the account of Gulf States. The same order authorized Marengo in Docket No. G–12764 to transport the gas from the point of delivery from Applicant to the Gulf States plant near Linden, Alabama.

By order issued March 17, 1958, in Docket No. G–13911 (19 FPC 399), Transco was authorized to transport and deliver gas in an amount up to 1,000 Mcf per day on an interruptible basis to American Can for use in the latter's paper mill in Choctaw County, Alabama, and to deliver such gas to Marengo for the account of American Can. The same order authorized Marengo in Docket No. G–13912 to transport the gas from the point of delivery from Transco to American Can's plant near Naheola, Alabama. By subsequent order issued April 12, 1960 (23 FPC 599) in Docket No. G–20119 (Applicant) and G–20320 (Marengo), the Commission authorized an increase in the interruptible delivery by Transco to American Can from 1,000 Mcf per day to 4,000 Mcf per day and a corresponding increase in the volume Marengo was authorized to transport.

On July 11, 1966, Marengo filed in Docket No. CP67–5 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing an increase in its transportation of gas to two of its customers, the aforementioned Gulf States and American Can, and for authority to construct facilities to increase the supply of gas to American Can, all as more fully set forth in the application.

Marengo proposes to construct and operate 3.3 miles of 4½-inch O.D. steel pipeline loop extending from Transco's main to the Naheola, Alabama plant of American Can together with the requisite pressure regulating facilities.

Marengo states that the purpose of the instant application is to increase its transportation of natural gas to Gulf States from 6,000 Mcf per day to 9,500 Mcf per day, and its transportation of natural gas to American Can from 4,000 Mcf per day to 10,000 Mcf per day.

The estimated cost of the new construction is $41,990, which cost will be financed by Marengo from cash on hand.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on September 8, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits submitted in support of the authorization sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, Marengo Corporation, an Alabama corporation having its principal place of business in Linden, Alabama, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of August 16, 1957, in Docket No. G–12764, *et al.* (18 FPC 182).

(2) Applicant, Transcontinental Gas Pipe Line Corporation, a Delaware corporation having its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of May 29, 1948, in Docket No. G–704 (7 FPC 24).

(3) The proposed transportation, and delivery by Transco and the construction and operation of facilities and transportation by Marengo of natural gas as hereinbefore described, and as more fully described in the applications, filed in these proceedings, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(4) The aforesaid transportation and delivery by Transco and construction and operation of facilities and transportation by Marengo are required by the public convenience and necessity and certificates therefor should be issued as hereinafter ordered and conditioned.

(5) Transco and Marengo are able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(6) Public convenience and necessity require that the certificates issued hereinafter and the rights granted thereunder be conditioned upon Transco's and Marengo's compliance with Section 155.1 and all other applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations applicable to Marengo and (a), (e) and (f) thereof applicable to Transco.

The Commission orders:

(A) Certificates of public convenience and necessity are issued to Marengo Corporation in Docket No. CP67-5, authorizing the construction and operation of facilities and the transportation and delivery of natural gas as hereinbefore described and to Transco authorizing the transportation and delivery of natural gas in Docket No. CP67-4, all as more fully described herein and as more fully described in the applications and exhibits in these proceedings, subject to the jurisdiction of the Commission, upon the terms and conditions of this order.

(B) The certificates issued by paragraph (A) above and the rights granted thereunder are conditioned upon Transco's and Marengo's compliance with Section 155.1 and all other Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations applicable to Marengo and (a), (e) and (f) thereof applicable to Transco.

(C) The facilities authorized shall be completed and placed in actual operation, as provided by paragraph (b) of Section 157.20 of the aforesaid Regulations within 6 months of the date on which this order issues.

(D) The certificate issued Transco is granted on the express condition that the interruptible service authorized therein shall be curtailed or interrupted to the extent required to meet existing or future contracted maximum delivery obligations of Transco for firm service to its customers.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross and Carl E. Bagge.

UNITED FUEL GAS COMPANY, DOCKET NO. CP66-379

FINDINGS AND ORDER AFTER STATUTORY HEARING PERMITTING AND APPROVING ABANDONMENT OF FACILITIES

(Issued September 12, 1966)

On May 18, 1966, United Fuel Gas Company (Applicant) filed in Docket No. CP66-379 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a total of 11.7 miles of 14-inch and 16-inch pipeline facilities located in Putnam County, West Virginia, all as more fully set forth in the application.

Specifically, Applicant proposes to retire by transfer to its distribution plant approximately 0.8 mile of 16-inch pipeline and to abandon in place approximately 10.9 miles of 14-inch and 16-inch pipeline extending eastward from the Town of Hurricane to the Kanawha River in Putnam County, West Virginia.

All customers served by the portion of the pipeline to be transferred to Applicant's distribution plant will continue to be served as retail customers of Applicant's West Virginia distribution operations. All other customers previously served from that portion of Applicant's pipeline proposed to be retired have been disconnected either by agreement or pursuant to authorization by the West Virginia Public Service Commission.

After due notice, no protest, petition to intervene or notice of intervention has been filed herein.

At a hearing held on September 8, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, United Fuel Gas Company, a West Virginia corporation having its principal place of business in Charleston, West Virginia, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order issued March 1, 1944, in Docket No. G-341 (4 FPC 534).

(2) The facilities to be abandoned, as hereinbefore described, and as more fully described in the application in this proceeding, are used in the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission, and abandonment of such facilities is subject to the requirements of Subsection (b) of Section 7 of the Natural Gas Act.

(3) The abandonment by Applicant, as hereinbefore described, is permitted by the public convenience and necessity and an order approving same should be issued as hereinafter ordered.

The Commission orders:

(A) Permission for and approval of the abandonment by Applicant of the facilities hereinbefore described, all as more fully described in the application in this proceeding, are granted.

(B) The time within which the abandonment of the facilities hereinbefore described, as authorized in paragraph (A) above, shall be accomplished is fixed at 6 months from the date of this order.

(C) Applicant shall advise the Commission of the date of said abandonment within 10 days thereof.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and Carl E. Bagge.

IOWA ELECTRIC LIGHT AND POWER COMPANY, DOCKET NO. E-7305

SUPPLEMENTAL ORDER AUTHORIZING ISSUANCE OF FIRST MORTGAGE BONDS

(Issued September 13, 1966)

By order issued August 29, 1966, 36 FPC 543, in the above-entitled matter, the Commission authorized Iowa Electric Light and Power Company, (Applicant), to issue and sell at competitive bidding $15,000,000 principal amount of First Mortgage Bonds, due 1996, subject among others, to the provisions set forth in paragraph (B) of that order as follows:

> (B) The proposed issuance and sale of Bonds at competitive bidding shall not be consummated until:
>
> (i) Applicant shall have amended its application pursuant to the requirements of Section 34.2(g) of the Commission's Regulations under the Federal Power Act relating to compliance with competitive bidding requirements, and Section 34.2(h)(1) of those Regulations relating to affiliation, and shall have either filed such amendments or shall have mailed them and advised the Commission by telephone and telegraph, as contemplated in Section 34.9 of the Regulations.
>
> (ii) The Commission, by further order, shall have approved the price to be received by Applicant for the proposed issuance of Bonds and the interest rate thereof.

Applicant on September 13, 1966 filed an amendment pursuant to the requirements of the aforementioned Commission order, setting forth, among other things, that it proposes to accept as providing the lowest annual cost of money to it, the joint bid of Merrill, Lynch, Pierce, Fenner & Smith, Inc. and Salomon Brothers & Hutzler to purchase the proposed issuance of $15,000,000, principal amount of Bonds, for the price of 100.211% principal amount, with an interest rate of 6¼%. Additionally, Applicant's amendment advises that its invitation for bids to purchase the proposed Bonds as published specified a price therefor of not less than 99% and not more than 102¾% of the principal amount thereof. Prior to the issuance of the Commission's August 29, 1966 order, Applicant had advised that its invitation for bids would specify a purchase price of less than the principal amount of the proposed bonds (100%), and not more than 102¾% thereof. Applicant's amendment filed September 13, 1966 advises that the inclusion of 100% of principal amount was a clerical error in its application.

The Commission finds:

(1) Applicant has satisfactorily complied with the requirements of paragraph (B) of the Commission's order issued August 29, 1966, in the above docket, and under the bid it proposes to accept for the Bonds, the price to be received by Applicant therefor and the interest rate thereof are reasonable.

(2) The proposed issuance and sale of Bonds, as hereinafter authorized, will be for a lawful object, within the corporate purposes of the Applicant and compatible with the public interest, which is appropriate for and consistent with the proper performance by the Applicant of service as a public utility and which will not impair its ability to perform that service, and is reasonably appropriate for such purposes.

The Commission orders:

(A) The price to be received by Applicant for the proposed Bonds and the interest rate thereof under the bid referred to above, are approved as reasonable.

(B) The proposed issuance and sale of Bonds referred to above upon the terms and conditions and for the purposes specified in the application, as supplemented by the amendment referred to above, are authorized, subject only to the provisions of paragraphs (A), (C), (D) and (E) of the Commission's order issued August 29, 1966, in the above docket.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross and Carl E. Bagge.

GEORGE DESPOT, AGENT (OPERATOR), ET AL., DOCKET NO. CI65–974; MAXWELL HERRING DRILLING CORPORATION (OPERATOR), ET AL., CI65–1176; SKELLY OIL COMPANY, CI66–468; PHILLIPS PETROLEUM COMPANY, CI66–500; INTERNATIONAL HELIUM, INC. (OPERATOR), ET AL., CI66–564; J. W. BATON (OPERATOR), ET AL., CI66–1169; W. R. HUGHEY OPERATING COMPANY, AGENT (OPERATOR), ET AL., CI66–1170; ROBBINS PETROLEUM CORPORATION (OPERATOR), ET AL., CI66–1208; B. REAGAN MCLEMORE, ET AL., CI66–1220; TRICE PRODUCTION COMPANY (OPERATOR), ET AL., CI66–1228; PHILLIPS PETROLEUM COMPANY, CI66–498; TEXACO INC., CI66–536, CI66–537; HUMBLE OIL & REFINING COMPANY, CI66–591; PHILLIPS PETROLEUM COMPANY, CI66–1038; NORTHERN PUMP COMPANY (OPERATOR), ET AL., CI66–1124; FOREST OIL CORPORATION (OPERATOR), ET AL., CI66–1159; FOREST OIL CORPORATION, CI66–1160; GULF OIL CORPORATION, CI66–68

ORDER TO SHOW CAUSE

(Issued September 14, 1966)

Each of the above-captioned proceedings concerns an application for a certificate of public convenience and necessity filed under Section 7 of the Natural Gas Act to make sales of natural gas which appear to be similar to the so-called sales restricted by contract to compressor fuel or company use only, which are the subject of the Supreme Court's decision in *California* v. *Lo-Vaca Gathering Company, et al.*, 379 U.S. 366. The aforesaid sales are being made from three separate areas, *i.e.*, Texas Railroad District No. 4, South Louisiana, and Texas Railroad District No. 6, all as more fully described in the Appendix attached hereto and in the respective applications which are on file with the Commission and open to public inspection.

All of the above sales are presently being made and initial service commenced without authorization by the Federal Power Commission. It appears that all sales except those to Lone Star Gas Company may be classified as sales purportedly restricted by contract for compressor fuel or company use within the state of purchase by the pipeline but commingled with gas purchased from other producers which is moving in interstate commerce. The sales to Lone Star are likewise sales restricted by contract for intrastate use but we are advised that Lone Star commingles such gas with natural gas purchased from other producers and that some of such commingled gas is transported to points in states other than that state in which such gas is produced and sold by Respondent.

All Respondents indicate that they have heretofore considered that their sales were nonjurisdictional and that no filings with the Commission were required in connection therewith. However, each of the Respondents was advised by letter that on the basis of information furnished by the purchasing pipelines such sales appear to come within the scope of the Supreme Court's decision in *California* v. *Lo-Vaca Gathering Company, et al.* (*supra*), holding that sales of this type are jurisdictional and requesting that each Respondent promptly submit the necessary certificate application. Various of the Respondents have specifically indicated that their application is submitted in response to, and in compliance with, said Commission letter but that a certificate is requested only in event that, after examination of said contract, the Commission determines that said sale does, in fact, come within the scope of *Lo-Vaca*.

The Commission finds:

(1) It is necessary and appropriate to carry out the provisions of the Natural Gas Act that the above-captioned Respondents appear and show cause, if any, as hereinafter ordered, why they should not be required to apply for and obtain, *nunc pro tunc*, certificates of public convenience and necessity authorizing the sales of gas which they have been making without authorization.

(2) It is appropriate and in the public interest that the above-captioned matters be consolidated for hearing and decision as hereinafter ordered.

(3) The expeditious disposition of these proceedings may be effectuated by holding a prehearing conference and to that end a prehearing conference should be held on October 26, 1966, as hereinafter ordered.

The Commission orders:

(A) The above-entitled Respondents shall appear and show cause, if any there be, at a public hearing to be held in a hearing room of the Federal Power Commission, 441 G Street, N.W., Washington, D.C., commencing November 14, 1966, at 10 a.m., EDT, why they should not be required to apply for, and obtain, *nunc pro tunc*, certificates of public convenience and necessity authorizing them to make the sales specified in their respective applications which they have previously made without authorization, and whether the initial price for such sales should not be fixed at the appropriate in-line price prevailing at the date deliveries commenced for the area in which such sales are being made, *i.e.*, South Louisiana, Texas District No. 4, and Texas District No. 6.

(B) The above-named respondents shall also appear and show cause at the above-ordered hearing why they should not be required to refund the difference between the initial price determined in accordance with paragraph (A) above and the price actually charged for the related deliveries of gas. The date from which refunds shall be made, if any, by the respondents, shall be determined in this proceeding and evidence may be offered by any party as to the appropriate amount of refunds, if any, and the date from which liability for such refunds should be fixed.

(C) The above-captioned matters are hereby consolidated for the purposes of hearing and decision.

(D) Pursuant to the provisions of Section 1.18 of the Commission's Rules of Practice and Procedure, a prehearing conference before a duly designated presiding examiner shall commence at 10:00 a.m. (EDST) on October 26, 1966, in a hearing room of the Federal Power Commission, 441 G Street, N.W., Washington, D.C., for the purpose of effectuating the expeditious disposition of these consolidated proceedings.

(E) The purpose of such conference shall be to consider all matters at issue in the above dockets, the manner in which evidence shall be presented, to fix dates for the distribution of such evidence, to fix the date on which the consolidated hearing shall commence, and to consider any and all matters which might contribute to an expeditious disposition of these consolidated proceedings.

(F) Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., in accordance with the Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before October 14, 1966. Protestants and Petitioners shall state with particularity the dockets in which they claim to have an interest.

APPENDIX A
DOCKET NO. CI65–974, ET AL.

Docket No. and Date Filed (1)	Seller/Date of		Sales Area (4)	Price Provisions of Proposed Rate Schedule with Effective Dates		Initial Service Rates* (7)
	Contract (2)	Initial Delivery (3)		Initial (5)	Increased (6)	
SALES TO LONE STAR GAS COMPANY [13]						
CI65-974.... 4-5-65	George Despot, Agent, (Operator), *et al.*: 4-5-60	[4] 5- 1-60	R.R. Dist. 6..	[6] 14.49 [4] 5-1-60	[6] 16.56 7-1-63	[6] 15.0
CI65-1176... 5-7-65	Maxwell Herring Drilling Corporation (Operator), *et al.*: 5-4-60	[4] 6- 1-60	R.R. Dist. 6..	[6] 14.49 [4] 6-1-60	[6] 16.56 7-1-63	[6] 15.0
CI66-468.... 12-1-65	Skelly Oil Company: 9-13-61	[4] 10- 1-61	R.R. Dist. 6..	[6] 14.49 [4] 10-1-61	[6] 16.56 7-1-63	[6] 15.0
CI66-500.... 12-9-65	Phillips Petroleum Company. 1-11-60	[4] 2- 1-60	R.R. Dist. 6..	[6] 14.49 [4] 2-1-60	[6] 16.56 7-1-63	[6] 15.0
CI66-564.... 1-3-66	International Helium, Inc. (Operator), *et al.* 1-11-60 [14] [15]	[4] 2- 1-61	R.R. Dist. 6..	[6] 14.49	[5] [6] 16.56 7-1-63	[6] 15.0
CI66-1169... 5-23-66	J. W. Baton (Operator), *et al.*: 3-20-61	[4] 4- 1-61	R.R. Dist. 6..	[6] 14.49 [4] 4- 1-61	[5] [6] 16.56 7- 1-63	[6] 15.0
CI66-1170... 5-23-66	W. R. Hughey Operating Company, Agent (Operator), *et al.*: 1-11-60 [14] [17]	[4] 2- 1-61	R.R. Dist. 6..	[6] 14.49 [4] 2- 1-61	[5] [6] 16.56 7- 1-63	[6] 15.0
CI66-1208... 5-27-66	Robbins Petroleum Corporation (Operator), *et al.*: 1-11-60 [14] [18]	[4] 5- 1-63	R.R. Dist. 6..	[6] 14.49 [4] 5- 1-63	[5] [6] 16.56 7- 1-63	[6] 15.0
CI66-1220... 5-27-66	B. Reagan McLemore, *et al.*: 11-1-60 [20] [21]	[4] 10- 1-61	R.R. Dist. 6..	[6] 14.49 [4] 10- 1-61	[5] [6] 16.56 7- 1-63	[6] 15.0
CI66-1228... 5-27-66	Trice Production Company (Operator), *et al.*: 9-13-61 [19]	10- 1-61	R.R. Dist. 6..	[6] 49.49 10- 1-61	[5] [6] 16.56 7- 1-63	[6] 15.0

See footnotes at end of table.

APPENDIX A

DOCKET NO. CI65–974, ET AL—continued

Docket No. and Date Filed	Seller/Date of		Sales Area	Price Provisions of Proposed Rate Schedule with Effective Dates		Initial Service Rates*
	Contract	Initial Delivery		Initial	Increased	
(1)	(2)	(3)	(4)	(5)	(6)	(7)
SALES TO FLORIDA GAS TRANSMISSION COMPANY						
CI66–498.... 12-8-65	Phillips Petroleum Company: 8-27-56	8- 2-59	A.R. Dist. 4...	16.5 8-2-59	[5] 17.5 7-1-62	[6] 15.0
SALES TO COLUMBIA GULF TRANSMISSION COMPANY [3]						
CI66–536.... 12-23-65	Texaco Inc.: 9-30-60	[4]11- 1-60	So. La.........	[9] [6] 23.55 [4] 11-1-60	[5] 25.05 11-1-64	[6] 20.0
CI66–537.... 12-23-65	Texaco Inc.: 1-30-61	[4]3- 1-61	So. La.........	[9] [6] 23.55 [4] 3-1-61	[5] 25.05 11-1-64	[6] 20.0
SALES TO TENNESSEE GAS PIPELINE COMPANY, A DIVISION OF TENNECO, INC.[3]						
CI66–591.... 1-10-66	Humble Oil & Refining Company: 3-5-62	5-15-62	Offshore So. La. Zone 2.	[9] 19.5 5-15-62	[5] [10] 20.5 5-15-65	18.5
CI66–1038... 4-26-66	Phillips Petroleum Company: 11-27-56	[4]1- 1-57	R.R. Dist. 4...	12.1227 [4] 1- 1-57	[11] 17.2435 1-1-60	[6] 15.0
					[5] [12] 17.0 11-1-64	[6] 15.0
CI66–1124... 5-12-66	Northern Pump Company (Operator), *et al.*: 10-1-59	2- -60	R.R. Dist. 4...	17.2435 2- -60	[5] 19.2435 11-1-64	[6] 15.0
CI66–1159... 5-20-66	Forest Oil Corporation, (Operator), *et al.*: 10-1-59	[4]2- -60	R.R. Dist. 4...	17.2435 2- -60	[5] 19.2435 11- 1-64	[6] 15.0
CI66–1160... 5-20-66	Forest Oil Corporation: 10-1-59	[4]2- -60	R.R. Dist. 4...	17.2435 2- -60	[5] 19.2435 11- 1-64	[6] 15.0
SALES TO TRANSCONTINENTAL GAS PIPE LINE CORPORATION						
CI66–68..... CI66–68..... 7-21-65	Gulf Oil Corporation: 10-8-57	1-10-58	So. La.........	[6] [22] 22.80 1-10-58	[5] [22] 24.80 7- 1-62	[6] 20.0

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*Statement of General Policy No. 61–1—Texas District No. 6.

[3] Presently Columbia Gulf, who only transports gas, is not obligated to flow through any refunds collected. Docket No. G–20241, 3-27-61, 25 FPC 589, as modified 1007.

[4] Assumed. Actual date not stated in application or filings.

[5] Proposed price.

[6] Inclusive of tax reimbursement.

[9] The only price provided for by basic contract.

[10] Price increase by contractual amendment dated 4-8-63 which also extended term of basic contract from 3 years to 12-31-70.

[11] Redetermined price contractually effective for period 1-1-60 to 11-1-64.

[12] Redetermined price contractually effective for period 11-1-64 to 11-1-69.

[14] Phillips Petroleum Company, signatory seller.

[15] International Helium, Inc., acquired the acreage from Fred Whitaker via assignment dated 7-31-64. By agreement notarized on 1-5-61, Whitaker ratified Phillips' 1-11-60 contract.

[17] By agreement notarized on 1-1-61, the *et al.* Parties ratified Phillips' 1-11-60 contract.

[18] John C. Robbins, Jr., acquired the acreage subject to the 1-11-60 contract via assignments dated 4-11-63, 11-2-64 & 12-2-64 and reassigned part of interests to Robbins Petroleum Corporation, *et al.*, by assignments dated 8-13-63 & 11-2-64.

[19] Trice Production Company, John C. Robbins, Jr., *et al.* signatory sellers.

[20] Texaco Inc., signatory seller.

[21] By agreement notarized on 9-21-61, B. Reagan McLemore, *et al.* Ratified the 11-1-60 Texaco contract.

[22] Prices under contract dated 10-8-57.

[23] R.R. Dist. 4—in-line—15¢ (see Op. No. 362, 383, *et al.*), for contracts dated prior to September 28, 1960 and 16¢ for contracts dated thereafter. So. La.—in-line—20¢, onshore (Op. No. 436), So. La.—offshore—18.5¢ (Op. No. 436).

N.B. Footnotes 1, 2, 7, 8, 13, and 16 have been deleted.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross and Carl E. Bagge.

PORTLAND GENERAL ELECTRIC COMPANY, PROJECT NO. 2195

ORDER EXTENDING TIME FOR FILING EXHIBIT R

(Issued September 14, 1966)

On June 27, 1966, the Portland General Electric Company, Portland, Oregon, licensee for Project No. 2195, filed an application for a modification of Article 42 of the order amending license, issued April 23, 1965, 33 FPC 876, extending the time for the filing of an Exhibit R. Article 42 presently provides for the filing of an Exhibit R within one year from the date of the license. Licensee desires to extend the time to 18 months from April 23, 1965, the date upon which the order requiring the filing of an Exhibit R was issued. Licensee states that it is in the process of preparing a revised Exhibit R and expects to file it within the time requested.

The Commission finds:

It is appropriate and in the public interest that Article 42 be modified as hereinafter provided.

The Commission orders:

Article 42 of the license for Project No. 2195 is modified to read as follows:

> *Article 42.* The Licensee shall, within eighteen (18) months from April 23, 1965, file with the Commission for approval an Exhibit R conforming to Section 4.41 of Commission Regulations under the Federal Power Act. The plan shall be prepared after consultation with appropriate Federal, state and local agencies and shall include recreational improvements which may be provided by others in addition to the improvements the licensee plans to provide.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross and Carl E. Bagge.

SOCONY MOBIL OIL COMPANY, INC., DOCKET NO. CI65-1227

ORDER TO SHOW CAUSE

(Issued September 14, 1966)

On July 14, 1965, Socony Mobil Oil Company, Inc. (Socony) received a permanent certificate of public convenience and necessity in Docket No. CI65-1227, authorizing it to make sales of natural gas to Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) from the Second Bayou Field, Cameron Parish, Louisiana, at a rate of 20¢ per Mcf, pursuant to a contract dated May 3, 1965. At the time of the Commission's certification of this sale it appeared to be an initial service, since no reference was made by Socony to any prior sale from the acreage dedicated under the above contract.

A subsequent investigation disclosed, however, that the same acreage in the Second Bayou Field had previously been dedicated by Socony to Tennessee, pursuant to contracts dated September 28 and November 16, 1959, and production therefrom was restricted by terms of the contract to use in compressor fuel located in Louisiana. It appears that such gas was commingled by Tennessee with gas purchased from other producers which moved in interstate commerce. No request for authorization by the Commission to make these sales to Tennessee was submitted by Socony.

On January 18, 1965, the Supreme Court, in *California* v. *Lo-Vaca Gathering Company*, 379 U.S. 366, sustained the Commission's Opinion No. 348, 26 FPC 606, issued on October 23, 1961, to the effect that the sale of natural gas to an interstate pipeline company for compressor fuel, although such natural gas would contractually be restricted to consumption by the purchaser in its intrastate operations, would be a sale of natural gas in interstate commerce for resale when commingled with gas from other sources which will, in fact, be sold out of state. It appears, consequently, that the Commission has not authorized the aforementioned sales of gas for compressor fuel although they are jurisdictional sales under the holding of the Supreme Court.

The Commission finds:

(1) It is necessary and appropriate to carry out the provisions of the Natural Gas Act that Socony Mobil Oil Company, Inc. appear and show cause, if any, as hereinafter ordered, why it should not be required to apply for and obtain, *nunc pro tunc*, a certificate of public convenience and necessity authorizing the sales of gas which it has been making without authorization from the Second Bayou Field in South Louisiana to Tennessee.

(2) It is necessary and appropriate to carry out the provisions of the Natural Gas Act that Socony Mobil Oil Company, Inc. respond to this order pursuant to Section 1.9(c) of the Commission's Rules of Practice and Procedure.

The Commission orders:

(A) Socony Mobil Oil Company, Inc. shall appear and show cause, if any there be, at a public hearing to be held in a hearing room of the Federal Power Commission, 441 G Street, N.W., Washington, D.C., commencing November 14, 1966, at 10:00 a.m., EST, why it should not be required to apply for and obtain, *nunc pro tunc*, a certificate of public convenience and necessity authorizing it to make the sales of compressor fuel gas to Tennessee from the Second Bayou Field, Cameron Parish, South Louisiana, which it has made up to July 14, 1965, without authorization of the Commission and whether the initial price for such sale should not be fixed at the appropriate in-line price for South Louisiana as of the date deliveries were commenced.

(B) Socony Mobil Oil Company, Inc. shall also appear and show cause at the above-ordered hearing why it should not be required to refund the difference between the initial price determined in accordance with paragraph (A) above and the price actually charged for the related deliveries of gas. The date from which refunds shall be made by Socony Mobil Oil Company, Inc. (up to the date Socony initiated deliveries under its permanent certificate in Docket No. CI65-1227) shall be determined in this proceeding, and evidence may be offered by any party as to the appropriate amount of refunds, and the date from which liability for refund should commence.

(C) At the hearing ordered herein Socony Mobil Oil Company, Inc. shall open and close. The presiding examiner shall determine the order in which other parties and the Commission's staff shall present evidence, if any, which they desire to present.

(D) Socony Mobil Oil Company, Inc. shall file with the Commission prepared written testimony and other evidence comprising its case-in-chief on or before October 14, 1966, and shall serve copies thereof on the Commission's staff and on petitioners to intervene.

(E) Notices and petitions to intervene and protests may be filed with the Commission in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure on or before October 14, 1966.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross and Carl E. Bagge.

SOUTHERN CALIFORNIA EDISON COMPANY AND IMPERIAL IRRIGATION DISTRICT, PROJECT NO. 325

ORDER FURTHER AMENDING LICENSE (TRANSMISSION LINE)

(Issued September 14, 1966)

On August 1, 1966, application[1] was filed by Southern California Edison Company (Applicant), joint licensee with Imperial Irrigation District for transmission line Project No. 325, for amendment of the license to eliminate therefrom Applicant's 4,918 feet long 15-kv, 3-phase wood-pole line running north from the southern boundary of Sec. 34, T. 4 S., R. 5 E., S. B. B. & M., upon tribal lands within the Agua Caliente Indian Reservation in Riverside County, California, and to eliminate Applicant from the license for Project No. 325.

The application for amendment is pursuant to the Commission's October 1, 1963, 30 FPC 889, order which, among other things, found that transmission line Project No. 325 is not part of a "project" as defined in Section 3(11) of the Federal Power Act, and provided for the filing of an application for surrender of the license for transmission line Project No. 325, subject to first obtaining authority from the appropriate Government agency for the continued occupancy by the lines comprising the project of the lands of the United States involved. The license for transmission line Project No. 325 includes another portion of transmission line owned solely by Imperial Irrigation District.

It now appears that the occupancy by Applicant's line of the tribal Indian lands involved was approved by the Department of the Interior on January 3, 1946, as shown on a map which accompanied the application for amendment.

The removal of the Applicant's portion of transmission line from the license for Project No. 325 will reduce the amount of annual charges fixed in the license for occupancy by the line of tribal Indian lands from $9.65 to $5.00. Annual charges under the license for Project No. 325 have been paid through December 31, 1965.

The Commission orders:

(A) The license for Project No. 325 is hereby further amended, effective as of December 31, 1965, to eliminate therefrom Southern California Edison Company's 15-kv, 3-phase, wood-pole line running 4,918 feet north from the southern boundary of Sec. 34, T. 4 S., R. 5 E., S. B. B. & M., lying 16 feet west of the east line of said Sec. 34, and to eliminate Southern California Edison Company as joint licensee under the license, leaving Imperial Irrigation District as the sole owner and licensee of record for Project No. 325.

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[1] This application supersedes an application filed March 21, 1966.

(B) The amount of annual charges specified in Article 14 of the license for transmission line occupancy of tribal Indian lands is by this amendment reduced to $5.00.

(C) License Exhibit F (FPC No. 325-4), showing the excluded transmission line is hereby eliminated from the license, and license Exhibit G, revised to reflect the exclusion of the said line, is hereby reapproved as part of the license.

(D) This order shall become final 30 days from the date of its issuance unless application for rehearing shall be filed as provided in Section 313(a) of the Act, and failure to file such an application shall constitute acceptance of this license amendment. In acknowledgement of the acceptance of this license amendment, it shall be signed for Southern California Edison Company and returned to the Commission within 60 days from the date of issuance of this order.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross and Carl E. Bagge.

THE SUPERIOR OIL COMPANY, DOCKET NO. CI67-287

ORDER TO SHOW CAUSE

(Issued September 14, 1966)

In *California* v. *Lo-Vaca Gathering Co.*, 379 U.S. 366, the Supreme Court held that the sale of natural gas to an interstate pipeline company under a contract purporting to require the pipeline company to use the gas for its own purposes in or out of the state of origin, was a sale of natural gas in interstate commerce for resale. In May 1965 the Federal Power Commission sent letters to Tennessee Gas Transmission Company (Tenneco),* Houston, and other natural gas pipeline companies which requested them to furnish to the Commission a list of all independent producers, if any, from whom Tenneco is purchasing gas which is commingled with a stream of gas transported out of the state of origin and for which there is not on file with this Commission a producer application requesting a certificate of public convenience and necessity or an outstanding certificate of public convenience and necessity authorizing such sales.

In letters dated May 21, 1965, and February 17, 1966, responding to inquiries from the Commission, Tenneco stated that it purchases for compressor fuel from The Superior Oil Company, Houston, natural gas produced in the South Bon Air Field, Calcasieu Parish, Louisiana; that such gas, amounting to approximately 500 Mcf per day, enters Tenneco's Grand Chenier lateral and is then transported to Tenneco's station 823 along with other natural gas gathered by Tenneco in the area; that Tenneco consumes as fuel in said station approximately 2500 Mcf of gas per day, and that gas not so consumed is transported out of the state of origin.

The Commission has not authorized said sales of gas.

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*Now Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

In response to letters from the Commission requesting Superior to apply for a certificate of public convenience and necessity authorizing said sales and file a rate schedule covering them, Superior stated, in substance, that said sales are being made under an oral agreement on a temporary basis pending action on Superior's petition for judicial review of the Commission's orders accompanying Opinion Nos. 436 and No. 436-A, 32 FPC 254, 952, relating to Superior's application under Docket No. CI61-1481 for a permanent certificate authorizing Superior to sell gas from the South Bon Air field to Tenneco, and concluded that no certification of said sales should be required.

The Commission finds:

(1) It is necessary and appropriate to carry out the provisions of the Natural Gas Act that The Superior Oil Company appear and show cause, if any, as hereinafter ordered, why it should not be required to apply for and obtain *nunc pro tunc* a certificate of public convenience and necessity authorizing the sale of gas which it has been making without authorization from the South Bon Air field in Louisiana to Tenneco.

(2) It is necessary and appropriate to carry out the provisions of the Natural Gas Act that Superior respond to this order pursuant to Section 1.9(c) of the Commission's Rules of Practice and Procedure and furnish other information as hereinafter ordered.

The Commission orders:

(A) The Superior Oil Company shall appear and show cause, if any there be, at a public hearing to be held in a hearing room of the Federal Power Commission, 441 G Street, N.W., Washington, D.C., commencing November 15, 1966, at 10:00 a.m., EST, why it should not be required to apply for and obtain *nunc pro tunc* a certificate of public convenience and necessity authorizing it to make the sale of gas to Tenneco which it has been making without authorization from the South Bon Air field, Calcasieu Parish, Louisiana, and whether the initial price for such sale should not be fixed at the appropriate in-line price for South Louisiana as of the date delivery was commenced, and why it should not be required to refund the difference between the lawful initial price and the price actually charged for the related deliveries of gas. The date from which refunds shall be made by Superior shall be determined in this proceeding, and evidence may be offered by any party as to the appropriate amount of refunds and the date from which liability for such refunds should be fixed.

(B) Superior shall respond to this order on or before October 14, 1966, by filing with the Commission an answer in writing fully in accordance with the provisions of Section 1.9(c) of the Commission's Rules of Practice and Procedure. Superior shall file also with said answer further information in writing and under oath as required below:

(1) A complete statement of all of the terms (including price) of the oral agreement, as amended or modified, under which Superior has sold or is selling to Tenneco natural gas produced in said South Bon Air field, and, if such agreement has been reduced to writing, file copies of such writing.

(2) On or about what date was said oral agreement made?

(3) What are the names and official positions of the persons who acted for Superior and Tenneco, respectively, in making said agreement?

(4) On or about what date did Superior first deliver to Tenneco natural gas produced in said South Bon Air field?

(5) Commencing with Superior's first delivery to Tenneco of gas from said South Bon Air field, list by calendar months the following information: The

total metered volumes of such gas delivered by Superior to Tenneco and state the pressure base and temperature at which such gas was measured; the maximum volume of such gas delivered on any one day in each month; the total amount of money and any other consideration received by Superior for such gas delivered to Tenneco in each month; the delivery point or points.

(6) Is Tenneco's Kinder, Louisiana compressor station, as mentioned in the third paragraph of Superior's letter of January 12, 1966, to the Commission, known also as Tenneco's compressor station No. 823?

(C) At the hearing ordered herein Superior shall open and close. The presiding examiner shall determine the order in which other parties and the Commission's staff shall present evidence, if any, which they desire to present.

(D) Superior shall file with the Commission prepared written testimony and other evidence comprising its case-in-chief on or before October 14, 1966, and shall serve copies thereof on the Commission's staff and on petitioners to intervene.

(E) Notices and petitions to intervene and protests may be filed with the Commission in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure on or before October 14, 1966.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and Carl E. Bagge.

BROWN-NEW HAMPSHIRE, INC., PROJECT NO. 2422

ORDER APPROVING REVISED PROJECT EXHIBIT L DRAWING

(Issued September 15, 1966)

On April 22, 1966, Brown-New Hampshire, Inc., licensee for Project No. 2422, filed for Commission approval a revised Exhibit L drawing for the project, known as the Sawmill Project, located on the Androscoggin River in Berlin, New Hampshire.

The drawing shows the reconstruction of a portion of the dam which was undertaken by the licensee as an emergency measure, a section of the timber crib structure having deteriorated to such an extent that it had developed excessive leakage and presented a hazardous condition. The timber crib structure was replaced with a concrete gravity section. The licensee also stopped a leakage in the powerhouse by facing a portion of the old rock-filled timber crib foundation with reinforced concrete, a repair which will make possible a more efficient operation of the project. The aforementioned reconstruction and repair were accomplished between June 7 and August 31, 1965.

The U.S. Corps of Engineers has approved the revised Exhibit L tracing pursuant to Section 4(e) of the Federal Power Act.

The Commission finds:

Exhibit L, sheet 1, Plan and Sections of powerhouse and dam (FPC No. 2422-8) conforms to the Commission's rules and regulations and should be approved as part of the license for the project, and license Exhibit L (FPC No. 2422-7) which has been superseded should be eliminated from the license for the project.

The Commission orders:

Exhibit L, sheet 1 described in the above finding is hereby approved as part of the license for Project No. 2422, and the superseded license exhibit mentioned in the same finding is hereby eliminated from the license for the project.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and Carl E. Bagge.

ORANGE AND ROCKLAND UTILITIES, INC., DOCKET NO. E-7246

ORDER EXTENDING TIME FOR THE MATURITY OF PROMISSORY NOTES

(Issued September 15, 1966)

On November 24, 1965 the Federal Power Commission issued an order pursuant to Section 204 of the Federal Power Act authorizing Orange and Rockland Utilities, Inc. (Applicant) to issue short-term promissory notes in the aggregate principal amount of $15,000,000 outstanding at any one time. The order was conditioned on the final maturity of said notes being not later then December 31, 1966.

By a letter dated August 22, 1966 to the Secretary of the Commission the Applicant requested an extension of time until June 30, 1967 for the final maturity date of the promissory notes. The Applicant states that it does not plan to issue any long term debt or additional equitable securities in 1966. It does, however, expect to do permanent financing sometime in 1967 in an amount at least sufficient to pay off the then outstanding promissory notes. In order that the Applicant may continue subsequent to December 31, 1966, to issue short-term promissory notes within the $15,000,000 limit, it has requested this extension of the final maturity date of the notes.

The Commission finds:

Under the circumstances recited by the Applicant it is appropriate and in the public interest to grant the requested extension of time.

The Commission orders:

The date for the final maturity of the promissory notes authorized to be issued by the Applicant in the above-entitled proceeding is hereby extended from December 31, 1966, to June 30, 1967.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and Carl E. Bagge.

PENOBSCOT COMPANY, PROJECT NO. 2312

ORDER APPROVING REVISED PROJECT EXHIBIT L DRAWING

(Issued September 15, 1966)

On May 18, 1966, Penobscot Company, licensee for Project No. 2312, located on the Penobscot River, Maine, filed for Commission approval a revised Exhibit L drawing showing the reconstruction of the east abutment of the dam which was undertaken by the licensee as an emergency measure.

A portion of the east abutment of the dam which had failed was replaced by a new timber crib abutment. An examination of the east end of the dam showed that it was in poor condition and this was stabilized by adding a new concrete capped timber crib section immediately downstream. The reconstruction was accomplished between July and October, 1965, pursuant to Article 4 of the license.

The U.S. Corps of Engineers has reported that the revised Exhibit L drawing is satisfactory insofar as the interest of navigation is concerned.

The Commission finds:

Exhibit L, Details of Dam (FPC No. 2317-9) conforms to the Commission's rules and regulations and should be approved as part of the license for the project, and license Exhibit L (FPC No. 2312-7) which has been superseded should be eliminated from the license for the project.

The Commission orders:

Exhibit L (FPC No. 2312-9) is hereby approved as part of the license for Project No. 2312, and superseded license Exhibit L (FPC No. 2317-7) is hereby eliminated from the license for the project.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and Carl E. Bagge.

CITIES SERVICE GAS COMPANY, DOCKET NO. CP67-7

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued September 16, 1966)

On July 13, 1966, Cities Service Gas Company (Applicant), filed in Docket No. CP67-7 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of additional compression facilities at its Grabham and Saginaw Compressor Stations, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate the following:

(1) One 2,000 horsepower unit at Applicant's existing Grabham Compressor Station in the Northeast Quarter (NE 1/4) of Section 27, Township 33 South, Range 15 East, Montgomery County, Kansas, thereby increasing the horsepower at such compressor station from 11,000 to 13,000; and

(2) One block mounted 1,350 horsepower compressor unit and one skid mounted 660 horsepower compressor unit at Applicant's existing Saginaw Compressor Station in the Southeast Quarter (SE 1/4) of Section 36, Township 27 North, Range 33 West, Newton County, Missouri, thereby increasing the horsepower of such compressor station from 1,700 to 3,710.

The facilities are stated to be necessary to enable Applicant to transport additional volumes of gas at adequate pressures to meet critical shortages which Applicant anticipates will develop in its Joplin-Springfield market area during the 1966-67 winter season, which anticipated shortages are occasioned by the likelihood that Applicant and Arkansas Louisiana Gas Company (Arkla) will fail to obtain certification of facilities for the proposed sale by Arkla to Applicant of 100,000 Mcf of gas per day, pending in Docket Nos. CP62-219 (Phase II), CP64-125 and CP64-131, consolidated in Docket No. CP66-226, *et al.*, by order issued January 24, 1966, 35 FPC 128 (31 F.R. 1345), in sufficient time to permit construction of the facilities therein proposed by the 1966-67 winter season.

The proposed facilities will enable it to transport on a peak day basis additional volumes of 5,440 Mcf of gas per day from existing sources of supply.

The total estimated cost of the project is estimated to be $1,235,000, which amount will be paid from treasury cash.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on September 14, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, submitted in support of the authorization, and upon consideration of the record,

The Commission finds:

(1) Applicant, Cities Service Gas Company, a Delaware corporation having its principal place of business in Oklahoma City, Oklahoma, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of December 28, 1943, in Docket No. G-298 (4 FPC 471).

(2) The proposed construction and operation of facilities and transportation of natural gas, as hereinbefore described and as more fully described in the application in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed construction and operation of facilities and transportation of natural gas are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Cities Service Gas Company authorizing the construction and operation of facilities and transportation of natural gas as hereinbefore described and as more fully described in the application in this proceeding, subject to the jurisdiction of the Commission, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be completed and placed in actual operation, as provided by paragraph (b) of Section 157.20 of the aforesaid Regulations within 12 months of the date on which this order issues.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and Carl E. Bagge.

FLORIDA GAS TRANSMISSION COMPANY, DOCKET NO. CP67-24

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued September 16, 1966)

On August 3, 1966, Florida Gas Transmission Company (Applicant), filed in Docket No. CP67-24 a "budget-type" application pursuant to Section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application.

Applicant seeks authorization for and proposes to construct during the twelve-month period following certification and operate various gas-sales and/or gas-transportation facilities to be used for the transportation and sale of volumes of natural gas previously authorized under certificates for transportation or sale of gas to existing distributor customers of Applicant at rates on file with the Commission, for resale in an existing market area, or areas, in which such distributor has obtained all requisite state and local authorization; and making of direct sales of natural gas to consumers located in areas outside the franchise area of any local distributor.

Applicant also proposes to effect miscellaneous rearrangements of existing pipeline facilities such as changes in existing field operations or relocations of existing sales or transportation facilities when required by highway construction, dam construction or other similar purposes, without, however, resulting in any change of service rendered by means of such rearranged facilities.

The estimated maximum facilities to be installed during the authorized construction period are as follows:

Type of Project	Number of Delivery Points	Estimated Cost of Each Facility
Transportation and sale of volumes previously authorized to existing distributor customers	3	$30,000
Direct sales of natural gas to consumers located outside local distributors' franchise areas	5	$20,000
Miscellaneous rearrangements	20	$7,000

Applicant states that deliveries of gas to any one distributor or consumer through the facilities proposed to be installed hereunder will not exceed 100,000 Mcf of gas annually and that the gas so delivered will not be used by such distributor or consumer for boiler fuel purposes. Applicant further states the facilities herein proposed will not be used to serve any distributor served or proposed to be served by any other natural gas company, and that no distributor served hereunder will be required to make a contribution to the Applicant for the cost of construction of the proposed facilities.

The total estimated cost of the gas-sales or gas transportation facilities proposed herein will not exceed $300,000, and will be financed with internally generated funds.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on September 14, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization, and upon consideration of the record,

The Commission finds:

(1) Applicant, Florida Gas Transmission Company, a Delaware corporation having its principal place of business in Winter Park, Florida, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order issued July 3, 1963, in Docket No. CP63–277 (30 FPC 27).

(2) The facilities hereinbefore described, as more fully described in the application, in this proceeding, are proposed to be used in the transportation and/or sale of natural gas in interstate commerce and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e), (f) and (g) of Section 157.20 of said Regulations.

(6) The authorization hereinafter granted should be limited to construction during the 12 month period following the issuance of this order. The total expenditures for facilities to be constructed thereunder should be limited to a maximum of $300,000, with the total deliveries to any one customer not to exceed a maximum of 100,000 Mcf of natural gas per year.

(7) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Applicant should submit within 60 days after the expiration of the authorization granted hereinafter, a statement in compliance with Section 157.7(c)(8) of the Commission's Regulations under the Natural Gas Act.

(8) The certificate issued hereinafter should be conditioned upon Applicant's compliance with the provisions of Section 157.7(c)(7) of the aforesaid Regulations.

The Commission orders:

(A) Upon the terms and conditions of this order, a certificate of public convenience and necessity is hereby issued authorizing Applicant, to construct during the 12 months following the issuance of this order the proposed facilities hereinbefore described, as more fully described in the application, in this proceeding, and to operate such facilities to sell natural gas to direct customers and to distributors for resale as hereinafter provided.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e), (f) and (g) of Section 157.20 of said Regulations.

(C) The authorization granted in paragraph (A) above is hereby limited to construction during the 12 months following the issuance of this order. The total expenditures for facilities to be constructed thereunder are hereby limited to a maximum of $300,000, with the total deliveries to any one customer limited to a maximum of 100,000 Mcf of natural gas per year.

(D) Applicant shall submit within 60 days after the expiration of the authorization granted by paragraph (A) above a statement in compliance with Section 157.7(c)(8) of the Commission's Regulations under the Natural Gas Act.

(E) The certificate issued by paragraph (A) above is expressly conditioned upon Applicant's compliance with the provisions of Section 157.7(c)(7) of the aforesaid Regulations and, further, shall not entitle any industrial customer to whom firm deliveries are authorized herein to any priorities or rights to additional gas for meeting any future increases in their requirements at the expense of firm resale customers desiring to acquire additional gas to meet any future increases in their requirements.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and Carl E. Bagge.

GULF RESOURCES, INCORPORATED, DOCKET NO. CI61-282

ORDER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued September 16, 1966)

On July 26, 1966, Gulf Resources, Incorporated, and Natural Gas Gathering Company, Inc. (Petitioners), filed in Docket No. CI61-282 a petition to amend the order issuing a certificate of public convenience and necessity in said docket by authorizing Gulf Resources, Incorporated, to continue the transportation of natural gas heretofore authorized to be made by both Petitioners, all as more fully set forth in the petition to amend.

By order issued May 10, 1966, 35 FPC 704, in Docket No. CI61-282 Petitioners were authorized to construct and operate facilities and to transport natural gas purchased from producers thereof by Tennessee Gas Pipeline Company, a Division of Tenneco Inc. Natural Gas Gathering Company, Inc., a wholly owned subsidiary of Gulf Resources, Incorporated, is the owner of a one-half interest in the project; and Gulf Resources, Incorporated, owns the other undivided one-half interest and is the operator of the facilities and the project.

Petitioners propose to liquidate and dissolve Natural Gas Gathering Company, Inc., and to transfer its assets and liabilities to Gulf Resources, Incorporated, which will continue the authorized service without change.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the petition has been received.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the order issuing a certificate of public convenience and necessity to Petitioners in Docket No. CI61-282 should be amended as hereinafter ordered.

The Commission orders:

(A) The order issuing a certificate of public convenience and necessity to Petitioners in Docket No. CI61-282 is amended by authorizing Gulf Resources, Incorporated, to acquire and operate as its own the undivided one-half interest in the authorized facilities owned by Natural Gas Gathering Company, Inc.; and in all other respects said order shall remain in full force and effect.

(B) Gulf Resources, Incorporated, shall file appropriate revisions to its tariff to reflect the acquisition and operation of facilities owned by Natural Gas Gathering Company, Inc.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and Carl E. Bagge.

NATURAL GAS PIPELINE COMPANY OF AMERICA, DOCKET NO. CP67-12

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued September 16, 1966)

On July 19, 1966, Natural Gas Pipeline Company of America (Applicant), filed in Docket No. CP67-12 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of an additional Daily Contract Quantity of 1,800 Mcf of natural gas to Iowa Electric Light and Power Company (Iowa Electric), all as more fully set forth in the application.

Applicant proposes to sell and deliver the additional contract demand quantity of 1,800 Mcf on a firm basis to Iowa Electric under Applicant's Rate Schedule CD-1. Iowa Electric requires the additional volume to meet an increase in the requirements of the Monsanto Company, an existing customer for use as a raw material in the manufacture of agricultural fertilizers. No additional facilities are required.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on September 14, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, Natural Gas Pipeline Company of America, a Delaware corporation having its principal place of business in Chicago, Illinois, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of November 7, 1958, in Docket No. G-9966 (20 FPC 694).

(2) The proposed sale and delivery of natural gas by Applicant to Iowa Electric Light and Power Company as hereinbefore described, and as more fully described in the application, in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed sale and delivery of natural gas is required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (c)(3), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, Natural Gas Pipeline Company of America, authorizing the sale and delivery of natural gas to Iowa Electric Light and Power Company as hereinbefore described and as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(3), (e) and (f) of Section 157.20 of such Regulations.

(C) Applicant and Iowa Electric Light and Power Company shall execute and file a superseding service agreement in accordance with the Commission's Regulations reflecting the increase in Iowa Electric's daily contract quantity of 1,800 Mcf.

(D) The service authorized herein shall commence as provided in paragraph (b) of Section 157.20 of the aforesaid Regulations by December 1, 1966.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and Carl E. Bagge.

NATURAL GAS PIPELINE COMPANY OF AMERICA, DOCKET NO. CP67-31

FINDINGS AND ORDER AFTER STATUTORY HEARING PERMITTING AND APPROVING ABANDONMENT OF FACILITIES AND ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued September 16, 1966)

On August 11, 1966, Natural Gas Pipeline Company of America (Applicant) filed in Docket No. CP67-37 an application pursuant to Sections 7(c) and 7(b) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities necessary to establish a new delivery point on Applicant's system for the continuation of deliveries of natural gas to Northern Illinois Gas Company (Northern Illinois) for distribution in the Princeton, Illinois, market area, and for permission and approval to abandon the existing facilities now used for deliveries to Northern Illinois for distribution in said market area, all as more fully set forth in the application.

Specifically, Applicant proposes to construct and operate a measuring station, approximately 800 feet of 6-inch pipeline and other appurtenant facilities necessary to establish the aforementioned new delivery point to Northern Illinois. Applicant further proposes to abandon the existing delivery facilities, consisting of 1.3 miles of 2-inch and 3-inch parallel branch lines and a measuring station.

The market area being served by the present delivery facilities is expanding in the direction of the present measuring station and would require Applicant to increase the capacity of its delivery facilities in the near future. The proposed relocation will enable Northern Illinois to receive gas delivered by Applicant in a less congested industrial and residential area and to advantageously reorient its distribution facilities.

The total estimated cost of Applicant's proposed construction is $26,000. The facilities to be abandoned will be removed at an estimated cost of $2,000, and salvage is estimated at $4,029.14. Applicant will finance its cost of construction from current working funds.

After due notice, no petition to intervene, notice of intervention or protest has been filed herein.

At a hearing held on September 14, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Natural Gas Pipeline Company of America, a Delaware corporation having its principal place of business in Chicago, Illinois, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of October 13, 1942, Docket No. G-235 (3 FPC 830).

(2) The proposed construction and operation of facilities by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The proposed construction and operation of facilities by Applicant are required by the public convenience and necessity, and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) The facilities to be abandoned, as hereinbefore described, and as more fully described in the application in this proceeding, are used in the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission, and abandonment of such facilities is subject to the requirements of Subsection (b) of Section 7 of the Natural Gas Act.

(6) The abandonment by Applicant, as hereinbefore described, is permitted by the public convenience and necessity and an order approving same should be issued as hereinafter ordered.

(7) Public convenience and necessity require that the certificate hereinafter issued and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, Natural Gas Pipeline Company of America, authorizing the construction and operation of facilities as hereinbefore described, and as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c) (1), (c) (3), (e) (4), (e), (f) and (g) of Section 157.20 of such Regulations.

(C) The facilities hereby authorized shall be constructed and placed in actual operation as provided by paragraph (b) of Section 157.20 of the aforesaid Regulations, by December 1, 1966.

(D) Permission for and approval of the abandonment by Applicant of the facilities hereinbefore described, as more fully described in the application in this proceeding, are granted.

(E) Applicant shall advise the Commission of the date of abandonment of said facilities within 10 days thereof.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and Carl E. Bagge.

NORTHERN NATURAL GAS COMPANY, DOCKET NO. CP65-196

ORDER AMENDING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued September 16, 1966)

On June 29, 1966, Northern Natural Gas Company (Petitioner) filed in Docket No. CP65-196 a petition to amend the order of the Commission issued in said docket on May 25, 1966 (Opinion No. 491, 35 FPC 790), requesting authorization to construct and operate additional facilities in order to extend the presently authorized Annandale-Maple Lake, Minnesota, branchline to the communities of South Haven, Kimball and Watkins, Minnesota, to provide initial service to said communities and to deliver gas to Wisconsin Gas Company in lieu of Natural Gas, Inc., for distribution in the Village of Baldwin, Wisconsin, all as more fully set forth in the petition to amend.

The Commission's order issued in the instant proceeding on May 25, 1966, authorized Petitioner, *inter alia*, to construct and operate 14.1 miles of 4-inch pipeline and measuring and regulating facilities to serve the communities of Annandale and Maple Lake, Minnesota. By the instant filing, Petitioner requests authority to construct and operate additional facilities consisting of 15.3 miles of 2 and 3-inch branch pipeline and three town border stations in order to initiate gas service to South Haven, Kimball and Watkins, Minnesota.

Petitioner estimates that in the third year of service, it will deliver a total of 685 Mcf of gas per day to North Central Public Service Company for resale in the communities of South Haven, Kimball and Watkins. Third year annual sales are estimated to be 191,840 Mcf.

The third year incremental revenues attributable to the proposed five community branchline exceed the incremental cost of service, including the cost of gas in the field plus incremental transmission expenses, by $3,469.

The Commission's order issued in the instant proceeding also authorized Petitioner to deliver volumes of natural gas to Natural Gas, Inc. (Natural Gas) for resale in the Village of Baldwin, Wisconsin (Baldwin). The Public Service Commission of Wisconsin issued an order dated June 2, 1966, authorizing Wisconsin Gas Company (Wisconsin Gas) to purchase the franchise, gas allocation, and operating rights of Natural Gas in Baldwin. Wisconsin Gas has agreed to make the contribution required by Paragraph (C) of the Commission's order issued in the subject docket. Accordingly Petitioner requests that it be authorized to deliver gas to Wisconsin Gas in lieu of Natural Gas for resale and distribution in Baldwin.

The total estimated cost of Petitioner's proposed construction is $232,800, which will be financed as part of the original project.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the certificate of public convenience and necessity heretofore issued in Docket No. CP65-196 be amended as hereinafter ordered.

The Commission orders:

(A) The certificate of public convenience and necessity issued to Northern Natural Gas Company by the Commission order of May 25, 1966, in Docket No. CP65-196 is amended by authorizing the construction and operation of additional natural gas facilities on the presently authorized Annandale-Maple Lake, Minnesota, branchline, the sale of up to 685 Mcf of natural gas per day to North Central Public Service Company for resale to the Communities of South Haven, Kimball and Watkins, Minnesota, and the sale and delivery of natural gas to Wisconsin Gas Company in lieu of Natural Gas, Inc., for resale in Baldwin, Wisconsin, all as hereinbefore described and as more fully described in the petition to amend.

(B) In all other respects said certificate shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and Carl E. Bagge.

NORTHERN NATURAL GAS COMPANY, DOCKET NO. CP67-33

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued September 16, 1966)

On August 15, 1966, Northern Natural Gas Company (Applicant) filed in Docket No. CP67-33 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a sales measuring station and appurtenant facilities in order to establish an additional delivery point for the sale of natural gas to Wisconsin Gas Company (Wisconsin Gas), an existing customer, for resale to the Radio Corporation of America/McCoy Job Corps Center (Job Corps Center), all as more fully set forth in the application.

Wisconsin Gas has requested that Applicant establish a delivery point at Camp McCoy, Monroe County, Wisconsin, for initial service to the Job Corps Center. Wisconsin Gas will utilize its existing allocation of contract demand to deliver maximum daily and annual volumes of natural gas in amounts of 670 Mcf and 131,200 Mcf, respectively, to the Job Corps Center. Sales to Wisconsin Gas by Applicant will be made under Applicant's existing rate schedule for firm service for Zone B.

The total estimated cost of Applicant's proposed construction is $18,690, which cost will be financed from cash on hand with reimbursement for actual costs by Wisconsin Gas.

After due notice, Wisconsin Gas has petitioned to intervene in support of the instant proposal. No other petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on September 14, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Northern Natural Gas Company, a Delaware corporation with its principal place of business in Omaha, Nebraska, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order issued on April 6, 1943, in Docket No. G–280 (3 FPC 967).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, Northern Natural Gas Company, authorizing the construction and operation of facilities as hereinbefore described and as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The facilities hereby authorized shall be completed and placed in actual operation, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, by October 15, 1966.

(D) The certificate issued by paragraph (A) above is conditioned upon the filing by Applicant of a revised service agreement with Wisconsin Gas Company in accordance with the Commission's Regulations under the Natural Gas Act.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and Carl E. Bagge.

CITIES OF PRINCETON AND MERCER, MISSOURI, AND LINEVILLE, IOWA, DOCKET NO. CP66-240

ORDER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued September 16, 1966)

On June 16, 1966, the Cities of Princeton and Mercer, Missouri, and Lineville, Iowa (Petitioners) filed in Docket No. CP66-240 a petition to amend the order issued in said docket on May 24, 1966, 35 FPC 782, requesting that paragraph (D) of said order be amended so as to remove the requirement that Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) file with the Commission a service agreement with each Petitioner, all as more fully set forth in the petition to amend.

The order of the Commission issued May 24, 1966, directs Michigan Wisconsin to make physical connection and deliver natural gas to Princeton and Mercer, Missouri and Lineville, Iowa, for local distribution. Paragraph (D) of said order requires Michigan Wisconsin to file service agreements with each of the parties.

In support of the above request Petitioners state that the gas delivered to Lineville will be separately metered at Lineville; that the deliveries of gas for Princeton and Mercer will be made to Princeton at the terminus of Michigan Wisconsin's portion of the lateral line; that the sales by Michigan Wisconsin to Princeton of the gas intended for Princeton and Mercer will be metered as one sale; and that deliveries of gas to Mercer will be made by Princeton by means of its transmission line.

Due notice of the filing of the application to amend and opportunity for hearing thereon has been given by publication in the Federal Register on August 4, 1966 (31 F.R. 10484). No petition to intervene, notice of intervention, or protest to the granting of the petition has been filed.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's order issued May 24, 1966, in Docket No. CP66-240, be amended as hereinafter ordered.

The Commission orders:

(A) The Commission's order issued May 24, 1966, in Docket No. CP66-240, is amended so as to modify the provisions of Ordering Paragraph (D) requiring Michigan Wisconsin to file with the Commission separate service agreements with each of the Cities of Princeton and Mercer, Missouri, and Lineville, Iowa, and to provide instead that Michigan Wisconsin file service agreements only with Lineville, Iowa, and Princeton, Missouri.

(B) In all other respects said order shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and Carl E. Bagge.

SUN OIL COMPANY, DOCKET NO. CI62-1003

ORDER DENYING OFFER OF SETTLEMENT

(Issued September 16, 1966)

On July 14, 1966, Sun Oil Company (Sun) submitted an offer of settlement in this proceeding pursuant to Section 1.18(e) of the Commission's Rules of Practice and Procedure involving a sale of natural gas by Sun to El Paso Natural Gas Company (El Paso) from the Jameson Plant, Millican Field, Coke County, Texas (Texas Railroad Commission District No. 7-C) under Sun's FPC Gas Rate Schedule No. 143. The sale is made pursuant to a contract dated January 26, 1962, which provided for delivery of casinghead gas, or residue derived therefrom, but upon reclassification of the field by the Texas Railroad Commission on September 1, 1965, as a gas-well gas field, the contract was amended by the parties to provide for the delivery of gas-well gas or residue derived therefrom.[1]

Sun now proposes to produce the remaining gas and sell and deliver it to El Paso. It requests that the Commission issue it a permanent certificate at an initial rate of 17.44¢ per Mcf of natural gas at 14.65 psia, which is the applicable area rate (16.5¢ plus 0.94¢ Btu adjustment) found by the Commission in its Opinion No. 468, 34 FPC 159, (as amended by Opinion No. 468-A, 34 FPC 1068) for "new" gas-well gas meeting specified quality standards. Additionally, Sun requests that this proceeding be severed from the proceeding initiated by our Show Cause Order issued August 5, 1965, 34 FPC 424, concurrently with the issuance of Opinion No. 468.

It appears that from 1955 until at least 1965 Sun utilized residue gas derived from casinghead gas for pressure maintenance purposes by reinjection of such residue gas into the reservoir. It is not possible, at this time, to ascertain the quantity of natural gas that was contained in the gas cap which existed at the time production first commenced, and that which resulted from reinjection. Such a determination could be made upon evidence to be introduced by Sun, if it chooses so to do, in the pending show cause proceeding. Since Sun proposes that all the remaining amount in the reservoir be certificated for sale as gas-well gas, we cannot at this time approve the offer of settlement filed by Sun on July 14, 1966.

In the alternative, however, Sun requests that the rate condition (condition (2)) in the temporary certificate issued March 27, 1962, be waived to allow it to file for an increased rate of 17.44¢ per Mcf, which is the applicable area rate if all of the gas is residue gas derived from "new" gas-well gas. Where a producer is operating under a temporary with respect to sales in the Permian area, it is our general policy not to allow rate filings in excess of the applicable just and reasonable ceiling determined in Opinion No. 468.[2] That policy does not apply here, however, because Sun asserts that it proposes only to charge the just and reasonable rate, contending that the ceiling for residue gas derived from gas-well gas is applicable to its sales, in lieu of the ceiling for residue gas derived from casinghead gas. Since we cannot determine at this time whether Sun's position is correct, we conclude that it would be appropriate to allow Sun to file for a rate increase up to the 17.44¢ per Mcf level applicable to the sale of residue gas derived from gas-well gas. Such a filing will be subject to suspension pending determination of the applicable ceiling, and if the moratorium provision in Opinion No. 468 is ultimately upheld upon judicial review[3] and the applicable ceiling for the subject sales is determined to be the ceiling for residue gas derived from casinghead gas, the filing will be rejected *ab initio.*

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[1] Sun was issued a temporary certificate conditioned to an initial rate of 16¢ per Mcf of natural gas at 14.65 psia, and which prohibited the filing of a rate increase until such time as a permanent certificate is issued.

[2] *Sun Oil Company*, order issued October 21, 1965, 34 FPC 1195; *Union Oil Company of California*, Docket No. CI65-683, order issued December 20, 1965, 34 FPC 1505; and *Sohio Petroleum Company*, Docket No. G-17012, order issued June 6, 1966, 35 FPC 900.

The Commission orders:

(A) The offer of settlement filed by Sun on July 14, 1966, in this proceeding is denied.

(B) The condition set forth in the temporary certificate issued March 27, 1962, prohibiting Sun from filing a rate increase until such time as it is issued a permanent certificate in this proceeding is waived so as to permit such a filing.

(C) The amendatory agreement to Sun's FPC Gas Rate Schedule No. 143 filed by it on October 21, 1965, is designated as Supplement No. 3 to such rate schedule, and is accepted as a change in rate schedule effective as of November 21, 1965, *provided however:* such acceptance does not constitute approval of, or acquiescence with, the provisions, terms or statements contained in the amendatory agreement, nor does the filing of the amendatory agreement constitute a notice of change in rate.

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[3] In addition to the moratorium in Sun's temporary, the moratorium in Opinion No. 468 is also applicable to Sun's sales but has been stayed.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and Carl E. Bagge.

TIDEWATER OIL COMPANY (OPERATOR), ET AL., DOCKET NOS. G-16928, CI66-556 AND RI65-129

ORDER RESCINDING ABANDONMENT AUTHORIZATION, REINSTATING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND RATE SUSPENSION PROCEEDING

(Issued September 16, 1966)

On August 2, 1966, Tidewater Oil Company (Operator), *et al.* (Applicant) filed an application for a certificate of public convenience and necessity authorizing the sale of casinghead gas to Wunderlich Development Company from certain acreage in the Southwest Ponca City Field, Kay County, Oklahoma. In Docket No. G-16928 Applicant had been issued a certificate of public convenience and necessity to sell gas from the identical acreage under the same basic contract.[1] On December 30, 1965, in Docket No. CI66-556, Applicant filed an application to abandon this sale and a motion to terminate the rate suspension proceeding on the ground that production had declined to an uneconomic level. This abandonment and termination of proceeding was permitted by Commission order issued June 27, 1966*.

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[1] By order issued August 7, 1964, the Commission suspended a proposed rate increase for the sale of this gas from 6.2¢ to 7.2¢ per Mcf in Docket No. RI65-129. The suspended rate was placed in effect subject to refund on February 1, 1965.

Applicant now alleges that commercial volumes of gas became available for delivery to Wunderlich again following a change in unit operations by Tidewater. On June 20, 1966 (prior to the time abandonment had been authorized) Applicant entered a letter agreement with Wunderlich reinstating the September 12, 1958, contract, in effect providing for a price for this "initial service" of 7.2¢, the previously suspended rate.

Under the circumstances involved herein, it would be inappropriate to issue a new certificate for the sale of gas by Applicant. Rather, since the same acreage and gas fields are involved, Applicant should be put into the same position existing at the time it filed an application to abandon service and terminate the proceeding.

The Commission orders:

(A) The permission to abandon its sales from this acreage previously issued to Tidewater Oil Company (Operator), *et al.*, in Docket No. CI66-556 is rescinded.

(B) The permanent certificate of public convenience and necessity heretofore issued to Tidewater in Docket No. G-16928 is reinstated.

(C) The rate suspension proceeding in Docket No. RI65-129 is reinstated.

(D) The Commission's acceptance of the notice of cancellation of Tidewater's gas sales contract designated as Supplement No. 3 to FPC Gas Rate Schedule No. 78 is rescinded and said rate schedule is reinstated.

(E) The letter agreement dated June 20, 1966, between Tidewater and Wunderlich Development Company is designated Supplement No. 4 to Tidewater's related FPC Gas Rate Schedule No. 78 and is accepted to be effective as of the date of resumption of service.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and Carl E. Bagge.

ATLANTIC SEABOARD CORPORATION, DOCKET NO. CP66-390

ORDER GRANTING CONDITIONED CERTIFICATE

(Issued September 20, 1966)

On May 26, 1966, Atlantic Seaboard Corporation filed the instant application in which it seeks authorization pursuant to Section 7(c) of the Natural Gas Act to interconnect and operate approximately 1185 feet of 36-inch O.D. by 0.250-inch wall thickness electric weld, grade X-100 steel pipeline as a segment of its transmission pipeline system in Grant County, West Virginia. A supplement to the application was filed on July 12, 1966, and additional information was filed on August 9, 1966, in response to a request of the Secretary of the Commission. Public notice of the application was made on June 3, 1966, and no protests or petitions to intervene have been filed.

The section of pipe in question originally was installed without certification by Seaboard on an experimental basis in November, 1964; it was capped on

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*Unreported.

each end and was attached to Seaboard's transmission pipeline system by means of a 2-inch line in order to react to line pressure as a storage vessel for testing purposes. Thereafter, on November 27, 1965, Seaboard interconnected the segment in question to a 10-mile loop on its transmission system without obtaining prior approval from the Commission. Construction and operation of that loop had been authorized in a temporary certificate issued on June 17, 1965, in Docket No. CP65-122; however, the pipe material specified in that application was 36-inch O.D. by 0.406-inch and 0.469-inch wall thickness grade API 5LX-60 steel. In its completion report in Docket No. CP65-122 filed on January 7, 1966, Seaboard revealed that it had substituted approximately 1185 feet of grade X-100 pipe for grade API 5LX-60 pipe as a portion of the 10-mile loop. After receiving Seaboard's completion report the Commission staff pointed out to Seaboard that it had no authorization to use the X-100 pipe. Seaboard then, on February 10, 1966, filed to amend its application in Docket No. CP65-122 and to amend the temporary certificate that had been issued in that docket so as to be permitted to install and operate the section of X-100 pipe in question. Seaboard's request to amend was denied by letter-order issued April 8, 1966, and Seaboard was directed to remove the pipe from service. The requested amendment was denied because of the fact that the X-100 pipe conformed to no standards of the American Petroleum Institute or the American Standards Association and because amendment would cause hearings in the proceeding in which Docket No. CP65-122 was consolidated[1] to be reopened, thus disrupting and delaying the disposition of applications in that proceeding. Seaboard complied with the Commission directive and discontinued operation of the grade X-100 line pipe on April 12, 1966. Since that line section is not separately interconnected to Seaboard's mainline system, but is an integral part of the 10-mile loop, Seaboard chose to remove the entire loop from service to comply with the order.

The X-100 pipe proposed to be used is composed of "quenched and tempered" steel which is markedly different (both in physical properties and in manufacturing process) from those types of steel of which API 5LX pipe is composed. Neither the American Standards Association nor the American Petroleum Institute has published specifications or standards for the manufacture, design, installation, or operation of grade X-100 line pipe (or, for that matter, of any "quenched and tempered" steel) for high pressure gas transmission lines. Seaboard and the manufacturer, United States Steel Corporation, during the experimentation and unauthorized operation, did establish a comprehensive and detailed program to develop procedures and tests relating to all aspects of the manufacture, design, installation, and utilization of the X-100 line pipe. In addition to these efforts, tests and evaluations were conducted by the Battelle Memorial Institute of Columbus, Ohio, whose special evaluation report has been submitted in this docket.

Despite the tests conducted to date and the care exercised in the manufacture and installation of this pipe we do not believe that its use should be authorized until after approval by the B31 Code Committee of the American Standards Association (ASA). The American Standard Code For Pressure

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[1] Columbia Gulf Transmission Co., *et al.*, Docket No. CP65-102, *et al.*

Piping — Gas Transmission and Distribution Piping System, ASA B31.8-1963, is the safety code generally followed by the natural gas pipeline industry, although compliance with that Code is voluntary. It is our belief, however, that, pending action on the legislation this Commission has proposed in this area, compliance with the Code should be a (but not necessarily the only) prerequisite to Commission certification of new construction under the terms of Section 7(c) of the Natural Gas Act as required by public convenience and necessity. As pointed out below, while the ASA Code, as presently drafted, does not directly establish standards for quenched and tempered steel as a pipe material, it does appear to provide a procedure by which the X-100 pipe can be qualified for use provided that it can be justified to the Code Committee. As indicated, the existing ASA standards and specifications provide no guidance whatsoever with respect to the appropriateness of quenched and tempered steel as a pipe material. That Code does adopt by reference various standard material specifications and requirements for pipe[2], but none of these specifications adopted relates to quenched and tempered steel for high pressure gas transmission pipelines.

This of course does not end the inquiry. There will always be new developments in the pipeline industry which do not conform to existing standards, and it is essential that there be an appropriate procedure by which such new developments can be qualified for operation. The question is what is the appropriate procedure under the present code provisions.

Seaboard claims that the X-100 pipe has been developed and installed in conformance with Section 811.24 of the ASA Code which provides:

> Items of a type for which no standards or specifications are listed in this Code (811.1[d]) may be qualified by the user by investigation and tests (if needed) that demonstrate that the item of material or equipment is suitable and safe for the proposed service, and provided further that the item is recommended for that service from the standpoint of safety, by the manufacturer. Examples: Gas compressors, pressure relief devices.

A letter from the Secretary of the B31 Code Committee, while not referring to X-100 or any other type of pipe, suggests that this section would apply to the "development stage of new materials, designs, or components". However, as pointed out below, such interpretation, if it is applied to radically new types of pipe like the X-100, seems wholly inconsistent with other sections of the Code and could render these important provisions nugatory. Thus, while obviously the ultimate interpretation of the Code is a matter for the ASA rather than the Commission, we are unable in the absence of a ruling by the appropriate Committee to accept the Seaboard contention.

The Code provisions for qualification of materials and equipment are set out in Section 811 thereof. Subsection 811.1 establishes five categories of such material and equipment of which the two most relevant here are 811.1(b) and (d).[3] These cover:

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[2] Section 813 of the ASA Code provides:

813.1 Standard specifications for various materials are listed in Appendices A and B.

813.2 Cold expanded pipe shall meet the mandatory requirements of API Standard 5LX.

> (b) Items that are important from a safety standpoint, of a type for which standards or specifications are listed in this Code, but the specific item in question does not conform to a listed standard. Example: Pipe manufactured to a specification not listed in the Code.
>
> * * * * * * *
>
> (d) Items of a type for which no standard or specification is listed in this Code: Example, Gas compressor.

It seems to us that the pertinent provisions of the ASA Code insofar as the present problem is concerned are Sections 811.22 and 811.221 which provide [emphasis supplied]:

> 811.22 Important items of a type for which standards or specifications are listed in this Code, *such as pipe,* valves and flanges, but which do not conform to standards or specifications listed in this Code (811.1 *b*) *shall be qualified* as described in 811.221 or 811.222.[4]
>
> 811.221 By petitioning the Code Committee for approval. If possible, the material shall be identified with a comparable material, and it should be stated that the material will comply with that specification except as noted. Complete information as to chemical composition and physical properties shall be supplied to the Code Committee, and their approval shall be obtained before this material may be used.

The plain meaning of the above language seems to impose a requirement for petitioning the Code Committee for approval when important items *such as pipe* which do not conform to listed standards or specifications and which vary materially from them. The language is unequivocal and imposes a mandatory requirement.

It seems equally clear that section 811.24 upon which Seaboard relies for its claim of Code compliance does not apply to items such as pipe. In the first place, that section is not phrased in the disjunctive to section 811.22 but, rather, is directed to types of items which are different from those contemplated in section 811.22. Section 811.22 refers to items of a type listed in section 811.1(b), ("items that are important from a safety standpoint, of a type for which standards or specifications are listed in this Code") for which the example of "pipe manufactured to a specification not listed in the Code" is given. Section 811.24 on the other hand refers to items of a type listed in section 811.1(d) for which the example of gas compressor is given. 811.24 itself gives as examples gas compressors and pressure relief devices. Unlike pipe there are no standards or specifications in the Code by reference or otherwise, governing the design or material composition of gas compressors or pressure relief devices.

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[3] 811 QUALIFICATION OF MATERIALS AND EQUIPMENT

811.1 Materials and equipment fall into five categories insofar as methods of qualification for use under this Code are concerned:

(a) Items which conform to standards of specifications listed in this Code.

(b) Items that are important from a safety standpoint, of a type for which standards or specifications are listed in this Code, but the specific item in question does not conform to a listed standard. Example: Pipe manufactured to a specification not listed in the Code.

(c) Items of a type for which standards or specifications are listed in this Code but which do not conform to the standards and are relatively unimportant from a safety standpoint because of their small size or because of the conditions under which they are to be used.

(d) Items of a type for which no standard or specification is listed in this Code: Example: Gas compressor.

(e) Unidentified or used pipe.

[4] Section 811.222 permits the use of only those materials which do not vary materially from a listed specification and is clearly inapplicable to X-100 pipe because of the markedly different physical properties of quenched and tempered steel as compared with materials now in use. That section provides:

> 811.222. Materials conforming to specifications which do not vary materially from a listed specification and which meet the minimum requirements of this Code with respect to quality of materials and workmanship may be used. This paragraph shall not be construed to permit deviations which would tend to adversely affect weldability or ductility. If the deviations tend to reduce strength, full allowance for the reduction shall be provided for in the design.

Accordingly, in the absence of a contrary interpretation by the Code Committee, we shall require Seaboard to comply with the requirements of section 811.221 of the ASA Code prior to the interconnection and operation of the X-100 pipe in question.

In light of our evaluation of the extensive testing conducted to date and the results thereof, it appears that the X-100 material would be suitable for use if the Code Committee, after its evaluation, grants specific approval pursuant to Section 811.221 of the Code. As indicated below, such approval will be also conditioned upon Seaboard making reports to the Commission with respect to the behavior, history and testing operations related to this pipe.

At a hearing held on September 19, 1966, the Commission on its own motion received and made a parts of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission further finds:

(1) Atlantic Seaboard Corporation, a Delaware corporation having its principal place of business in Charleston, West Virginia, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission (3 FPC 941).

(2) The facilities hereinbefore described and as more fully described in the application in this proceeding are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof are subject to the requirements of subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Seaboard is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Seaboard's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Atlantic Seaboard Corporation, to install and operate the proposed facilities and to sell and deliver natural gas as hereinbefore described, all as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned as follows:

(1) Prior to the installation and operation of the facilities in question Seaboard must petition and obtain express approval of the pipe proposed for use from the B31 Code Committee of the American Standards Association as provided in section 811.221 of the American Standard Code For Pressure Piping—Gas Transmission and Distribution Piping Systems, ASA B31.8-1963.

(2) Seaboard shall: (a) report immediately, any abnormality in the behavior of the grade X-100 line segment; (b) file at six month intervals from the date of the issuance of this order progress reports to include, but not be restricted to, operating pressure history, leak survey data, and cathodic protection pipe-to-soil potential survey data on the grade X-100 pipeline. Such reports shall also include a status report on the hydrogen-stress field tests on grade X-100 steel concurrently being carried on by the Battelle Memorial Institute.

(3) Seaboard shall comply with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be constructed and placed in actual operation and the sale and delivery of natural gas authorized in paragraph (A) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within six months from the date on which this order issues.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and Carl E. Bagge.

TRANSWESTERN PIPELINE COMPANY, DOCKET NOS. CP63-204 AND CP64-19; GULF PACIFIC PIPELINE COMPANY, CP63-223; EL PASO NATURAL GAS COMPANY, CP64-76

ORDER GRANTING REHEARING FOR PURPOSES OF ADEQUATE CONSIDERATION

(Issued September 21, 1966)

Southern California Edison Company (Edison), on August 23, 1966, the City of Los Angeles and its Department of Water and Power (LADWP) on August 24, 1966, and Gulf Pacific Pipeline Company, the People of the State of California and the Public Utilities Commission of the State of California, and the United States Department of Health, Education, and Welfare (HEW) on August 25, 1966, have filed applications for rehearing with respect to our Opinion No. 500 and order issued July 26, 1966, 36 FPC 176. In accordance with Section 19 of the Natural Gas act these applications may be deemed denied unless the Commission acts within 30 days after their filing.

After the receipt of these applications, information came to the Commission's attention indicating that some of the producers contracting to supply gas to Edison and LADWP to be transported by Gulf Pacific had filed notices of termination of their contracts. Consequently, on September 2, 1966, *supra*, p. 577, we issued an order providing that Gulf Pacific, Edison and LADWP should submit by September 13, 1966, copies of such notices of termination and that Gulf Pacific, Edison, LADWP should and other parties might submit by September 16, 1966, statements showing why the proceedings should not be sum marily terminated as moot. In accordance with this order copies of contract terminations and statements have been filed.

On September 6, 1966, in response to our order of August 19, 1966, 36 FPC 491, correcting certain ordering clauses in Opinion No. 500, California filed an additional application for rehearing.

In order to provide time for adequate consideration of the responses to our order of September 2, 1966, and California's application for rehearing of our order of August 19, 1966, we shall grant rehearing of Opinion No. 500 and order, and our order of August 19, 1966.

In view of this limited reason for granting rehearing and the opportunity afforded all parties to file statements in response to our order of September 2, 1966, we see no need for responses to be filed with respect to the applications for rehearing of Opinion No. 500, and will not delay our further orders herein to await any such filings. However, a response by El Paso would be appropriate to the application for rehearing filed by California with respect to our order of August 19, 1966. Any such response should be filed by September 27, 1966.

While we are granting the applications for rehearing to insure adequate consideration, this should not be considered a stay of our Opinion No. 500 and order as amended by our order of August 19, 1966.

The Commission orders:

The applications for rehearing filed with respect to our Opinion No. 500 and order and the application filed with respect to our order of August 19, 1966, are hereby granted for purposes of adequate consideration by the Commission.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and Carl E. Bagge.

ALABAMA POWER COMPANY, PROJECT NO. 2165

ORDER ON REHEARING FIXING ANNUAL CHARGES FOR USE OF A GOVERNMENT DAM

(Issued September 23, 1966)

The Commission on September 28, 1965, 34 FPC 971, issued an order fixing annual charges of $92,000 to the Alabama Power Company for its use in the John Hollis Bankhead Powerhouse development, Project No. 2165, of the United States' John Hollis Bankhead navigation dam, also known as Lock and Dam No. 17, on the Black Warrior River in Alabama. The charges were made effective from July 12, 1963, when the powerhouse development was put in commercial operation.

The licensee filed an application for rehearing, and the Commission granted rehearing for purposes of further consideration. The order fixing hearing, issued on April 21, 1966, specified that subjects examined would include "not only the issues raised by the Alabama Power Company's application for rehearing * * * but also the question of what basic method should be employed for fixing annual charges for the use of the Government dams."

Prehearing conferences were held before Presiding Examiner Harry C. Shriver on May 10, June 15, June 24, and June 28, 1966. At the last of these conferences, it was stated that the licensee and the Commission staff had reached an agreement on the proposed annual charges incorporated in this order. The licensee, citing *The Montana Power Co.* v. *F.P.C.*, 298 F. 2d 335 (CA9–1962), states that it is the reasonableness of the end result, not the reasonableness of the method of computing the payment, which is the statutory standard for determining annual charges, and that the proposed charges are reasonable. The licensee and the Commission staff joined in a motion to the Examiner to certify the proposed charges to the Commission for its approval. The motion was granted, and the proceeding is before us on the Examiner's certification.

The annual charges fixed by the order of September 28, 1965, were computed according to the so-called sharing-of-the-costs method, in which the annual costs of the Government joint-use facilities (*i.e.*, the dam and reservoir) are apportioned between the United States and the licensee in the ratio which the benefits of the facilities to the one bear to the benefits of the facilities to the other. Although annual charges were computed by this method on several occasions in the early 1920's, it has not been used, so far as we are aware, since then. Our order of September 28, 1965, was an inadvertent return to that method.

The annual charges now proposed for our approval are computed by the so-called sharing-of-the benefits method, which has been in general use since about 1925. The proposed charges are as follows: (1) $43,100 for the period of July 12, 1963, through December 31, 1963; (2) $89,600 per year for the period of January 1, 1964, until the filling of the reservoir is completed at the United States' downstream Holt navigation dam (Lock and Dam No. 13); (3) $74,000 per year for the period thereafter until any readjustment of the charges pursuant to Section 10(e) of the Act (16 U.S.C. 803 (e)).

The sharing-of-the benefits method consists of four basic steps, as follows: (1) finding the annual costs of the powerhouse development to the licensee; (2) finding the gross annual benefits of the powerhouse development to the licensee; (3) subtracting the annual costs from the annual benefits of the powerhouse development; and (4) sharing the net annual benefits equally between the United States and the licensee.

The sharing-of-the benefits method, we note, assures that all licensees pay (and hence receive) the same proportion of the value of the benefits of their powerhouse developments. Under a sharing-of-the-costs method, some licensees might be required to pay virtually all of the value of the benefits and others virtually none, depending on the factual situation. Moreover, under such method, once the pay-out or amortization period of the Government project has run, the annual charges would be drastically reduced (they would consist merely of a part of the operation, maintenance, and replacement costs). We are persuaded by these considerations to adhere to the sharing-of-the benefits method for fixing annual charges for the use of Government dams. This method, we observe, is to be used to fix the charges to the Alabama Power Company for the use in its Holt Powerhouse development, Project No. 2203, of the United States' Holt navigation dam. See: *Alabama Power Co.*, Project No. 2203, October 7, 1965, 34 FPC 1108 (Article 44 (ii)).

Other significant differences between the derivation of the annual charges proposed for our approval here and the derivation of those fixed by the order of September 28, 1965, are as follows:

(1) The proposed charges are based on a cost of money to the licensee of six percent. The order of September 28, 1965, utilized a cost of money of 5.5 percent.

(2) The proposed charges are based on a value of dependable capacity to the licensee at the time it decided to construct the project of $21.00 per kilowatt

per year. A value of $23.50 was used in the order of September 28, 1965. (3) For the proposed charges, a dependable capacity of 52,000 kilowatts is used; after the filling of the downstream Holt reservoir, which will back up against the Bankhead dam and decrease the head, a dependable capacity of 50,000 kilowatts is used. The order of September 28, 1965, assumed that the dependable capacity was the same as the nameplate rating of 45,000 kilowatts.

The decrease in the proposed annual charges from those fixed in the order of September 28, 1965, is the result not of the use of the sharing-of-the benefits method, but primarily of the use of a lesser value for dependable capacity and to some extent the greater cost of money to licensee.

The Commission finds:

It is appropriate and in the public interest in administering Part I of the Federal Power Act, particularly Section 10(e) thereof, to fix the annual charges as set forth below to the Alabama Power Company for the use in its John Hollis Bankhead development, Project No. 2165, of the United States' John Hollis Bankhead navigation dam.

The Commission orders:

(A) The order of September 28, 1965, fixing annual charges to the Alabama Power Company for the use in its John Hollis Bankhead Powerhouse development, Project No. 2165, of the United States' John Hollis Bankhead navigation dam is hereby rescinded.

(B) The license for Project No. 2165 is hereby amended, effective as of July 12, 1963, the date of the commencement of the commercial operation of the licensee's generating unit at the United States' John Hollis Bankhead navigation dam, by modifying subparagraph (iii) of Article 42 to read as follows:

> (iii) The annual charge for the purpose of recompensing the United States for the use of the John Hollis Bankhead navigation dam shall be as follows: (1) $43,100 for the period of July 12, 1963, through December 31, 1963; (2) $89,600 per year for the period of January 1, 1964, until the filling of the reservoir is completed at the United States' downstream Holt navigation dam (Lock and Dam No. 13); and (3) $74,000 per year for the period thereafter. The charges may be readjusted in the future pursuant to the provisions of Section 10(e) of the Federal Power Act.

(C) Acknowledgment of acceptance of all of the provisions, terms, and conditions of this license amendment shall be made by the licensee and returned to the Commission within 30 days from the date of issuance of this order.

Commissioner Ross *concurring* with the result simply because the parties have agreed to a stipulation which seems reasonable. However, he does not join in the purported rationale of the order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

CENTRAL MAINE POWER COMPANY, DOCKET NO. E-7290

ORDER DENYING APPLICATION FOR REHEARING

(Issued September 23, 1966)

Central Maine Power Company (Applicant or Company) filed an application on August 26, 1966, seeking rehearing of the Commission's order of July

29, 1966, 36 FPC 323, authorizing the Applicant to acquire the electric facilities of Maine Consolidated Power Company and of its wholly-owned subsidiary, Phillips Electric Light and Power Company. Applicant requests the Commission to modify its order insofar as it requires the Company to amortize an acquisition adjustment of $563,934 through Account 425, Miscellaneous Amortization, as an income deduction over a period not to exceed five years. Applicant submits that it should be allowed to amortize this amount through charges to operating expenses over a period of 15 years.

The accounting disposition of amounts classified in Account 114 Electric plant acquisition adjustments[1] is provided in the Commission's Uniform System of Accounts Prescribed for Class A and Class B Public Utilities and Licensees (18 CFR 84, 131), as follows:

> C. The amounts recorded in this account with respect to each property acquisition shall be amortized, or otherwise disposed of, as the Commission may approve or direct.

Absent a showing that the expenditures in excess of original cost depreciated, in themselves, are of benefit to the company's consumers, the Commission's Regulations and established practice contemplate that Applicant will charge off such amount, $563,934, below the line over a reasonable period—on the facts of this case a period not to exceed five years.[2]

In support of its accounting disposition, the Company directs attention to projected utility rate revisions and operations arising from consummation of the merger transaction; background facts associated with its negotiations to acquire the two companies, including a competing offer for their purchase; reproduction cost appraisal procedures covering the properties involved; and rate base valuation procedures and findings observed in another regulatory jurisdiction.

Careful review of all of these considerations does not persuade us that Applicant has discharged its obligation of meeting this Commission's consumer benefit test of requests to amortize acquisition adjustments through changes to operating expenses or of establishing the reasonableness of the 15-year amortization period it seeks.

The Commission finds:

The assignments of error and grounds for rehearing set forth in the above-described application for rehearing of the order of July 29, 1966, present no facts or principles of law which were not considered by the Commission when it issued the order or which, having now been reconsidered, warrant any change or modification of the order.

The Commission orders:

The above-described application for rehearing of the Commission's order of July 29, 1966, is denied.

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[1] Amounts classifiable therein are as described in Account Instruction Paragraph A, Account 114:

> A. This account shall include the difference between (a) the cost to the accounting utility of electric plant acquired as an operating unit or system by purchase, merger, consolidation, liquidation, or otherwise, and (b) the original cost, estimated, if not known, of such property, less the amount or amounts credited by the accounting utility at the time of acquisition to accumulated provisions for depreciation and amortization and contributions in aid of construction with respect to such property.

[2] Alternatively, Applicant without prior Commission permission may charge off acquisition adjustments directly to Account 216 earned surplus. Section 120.4 Electric plant acquisition adjustment accounts, Regulations under the Federal Power Act (18 CFR 141).

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

VILLAGE OF CIRCLE PINES, MINNESOTA v. NORTHERN NATURAL GAS COMPANY AND NORTH CENTRAL PUBLIC SERVICE COMPANY, DOCKET NO. CP67-17

ORDER DISMISSING COMPLAINT

(Issued September 23, 1966)*

On July 18, 1966, the village of Circle Pines, Minnesota (Circle Pines), a municipality which purchases gas from Northern Natural Gas Company (Northern) for distribution to customers in Circle Pines and a portion of the adjacent village of Lino Lakes, Minnesota, filed a complaint against Northern and North Central Public Service Company (North Central) alleging that the franchise issued to it by Lino Lakes grants it the right to extend natural-gas service to the entire community but that North Central has succeeded in obtaining a non-exclusive franchise authorizing the latter also to distribute gas in Lino Lakes. Circle Pines avers that neither Northern nor North Central has ever filed an application seeking Commission authorization allowing Northern to deliver gas to North Central for distribution in Lino Lakes, whereas Circle Pines was granted an increase of 200 Mcf in its contract demand in November 1965 for initiation of natural-gas service in Lino Lakes. Circle Pines claims that Northern and North Central's contractual arrangement under which they propose to provide natural-gas service to Lino Lakes is unjust, unreasonable, unduly discriminatory or preferential under Section 5(a) of the Natural Gas Act in view of Northern's existing contractual relations with Circle Pines. Consequently Circle Pines asks that the Commission (1) order Northern not to deliver any gas to North Central for use in Lino Lakes, (2) cancel any contract between Northern and North Central providing for the interconnection of facilities to render service to Lino Lakes, and (3) reconfirm the Commission's prior allocation of gas to Circle Pines for use in Lino Lakes.

North Central and Northern filed answers to Circle Pines' complaint on August 22 and August 30, 1966, respectively, in which they deny that either of them has failed to comply with the Natural Gas Act in any way and allege that Circle Pines' complaint fails to state a cause of action under the Natural Gas Act. They agree that Lino Lakes did issue a non-exclusive franchise to Circle Pines in October 1961 and that Circle Pines does in fact distribute natural gas in a small portion of Lino Lakes, but they point out that on June 13, 1966, Lino Lakes granted a non-exclusive franchise to North Central authorizing it to distribute natural gas in Lino Lakes *except* for the portion of the village already being served with natural gas by Circle Pines. Accompanying Northern's answer is a copy of a letter sent to the Utilities Commission of Circle Pines advising the latter that Lino Lakes had issued a franchise to North Central authorizing it to distribute natural gas in Lino Lakes, except for that portion being served by Circle Pines, and stating that Lino Lakes desired to amend the franchise granted to Circle Pines to provide for this division of distribution territory so as to "* * * eliminate any possible future misunderstanding on the question of gas service as between North Central Public Service Company and the Circle Pines Utilities Commission."

North Central states that Circle Pines merely extended its distribution system into Lino Lakes and utilized its existing contract demand authorization to provide the additional service to Lino Lakes. North Central claims that it is planning to provide service to Lino Lakes in the same manner, that is, by extension of its existing distribution system in Blaine, Minnesota, to Lino Lakes. North Central further alleges that since both it and Circle Pines have provided for service to Lino Lakes from existing distribution facilities not subject to Commission jurisdiction and have utilized, or plan to utilize, existing contract demand volumes of gas heretofore certificated by the Commission, that there is no need for either Circle Pines or North Central to seek specific authorization from the Commission to provide natural-gas service in Lino Lakes.

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*Rehearing denied by order issued November 18, 1966, 36 FPC 873.

Northern states that the dispute between North Central and Circle Pines is a matter within the competence of the Minnesota state courts and notes that Circle Pines has in fact already instituted an action against Lino Lakes and North Central in a Minnesota state court to enforce its franchise rights.

It is clear that the dispute between North Central and Circle Pines is purely a local dispute as to the franchise rights granted to Circle Pines and North Central by the village of Lino Lakes. We have left such matters to the determination of local authorities in similar cases. See, *e.g.*, *American Louisiana Pipe Line Co.*, 28 FPC 41, 42, and *Northern Natural Gas Co.*, 22 FPC 164, 175-76. However, in each of those cases we were at least required to take some action because the competing distributors were seeking specific allocations of gas from pipeline companies in order to initiate natural-gas service, whereas the factual situation with respect to Lino Lakes shows that each of the competing distributors already has sufficient contract demand under prior Commission orders to permit either of them to provide natural-gas service in Lino Lakes. Northern's facilities are already connected to each competitor's existing distribution system and Northern is authorized to sell and deliver gas to each competitor under existing service agreements approved by the Commission.

Although Circle Pines purports to have received an increase of 200 Mcf in contract demand to provide service to Lino Lakes, it does not cite the Commission order which is supposed to have provided for the specific increase for Lino Lakes. Circle Pines does state that the increase became effective in November 1965, so presumably Circle Pines' reference to an increase of 200 Mcf in contract demand is related to Northern's application in Docket No. CP65-188 wherein we issued an order on March 31, 1965, 33 FPC 659, authorizing Northern to increase its system capacity by 47,741 Mcf, including an increase of 200 Mcf in Circle Pines' contract demand. Northern's application in Docket No. CP65-188 made no mention of the fact that Circle Pines needed the additional gas to initiate natural-gas service in the village of Lino Lakes. In order for this authorization to have the meaning which Circle Pines seeks to attach to it, Circle Pines would have had to present evidence in Docket No. CP65-188 showing, *inter alia*, the estimated gas requirements of Lino Lakes and demonstrating the economic feasibility of distributing natural gas in that community. In the absence of any such evidence of record in Docket No. CP65-188, that proceeding cannot be used on a retroactive basis to formulate the argument that we authorized Northern to deliver a specific volume of gas to Circle Pines for initiation of natural-gas service in Lino Lakes.

The foregoing discussion shows that the only questions raised by Circle Pines' complaint relate to the proper interpretations to be given under Minnesota law to the non-exclusive franchise issued by Lino Lakes to both Circle Pines and North Central. We believe that these matters should be left for determination by the local authorities in Minnesota.

The Commission finds:

Circle Pines' complaint against Northern Natural Gas Company and North Central Public Service Company should be dismissed for failure (1) to state any facts showing that either Northern or North Central has done anything or omitted to do anything in contravention of the Natural Gas Act, or of the Commission's orders, rules, or regulations issued thereunder, or (2) to show that the nature of the dispute between Circle Pines and North Central is a matter properly to be decided by the Commission.

The Commission orders:

The Complaint filed July 18, 1966, by the village of Circle Pines in Docket No. CP67-17 is dismissed.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and Carl E. Bagge.

FLORIDA GAS TRANSMISSION COMPANY, DOCKET NO. CP67-19

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued September 23, 1966)

On July 25, 1966, Florida Gas Transmission Company (Applicant), filed in Docket No. CP67-19 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of the facilities necessary to sell and deliver natural gas on a direct firm and so-called Preferred Interruptible basis to Hudson Pulp and Paper Corporation (Hudson) for use in its pulp and paper plant located near Palatka in Putnam County, Florida, all as more fully set forth in the application which is on file with the Commission.

Applicant specifically proposes to construct and operate approximately 4.40 miles of 6-inch pipeline extending from its existing 8-inch Palatka lateral pipeline in Putnam County, Florida in a general northerly direction to Hudson, together with the necessary metering and regulating facilities to render the proposed service.

Applicant estimates the maximum deliveries to Hudson will be 442 MMBtu daily and 88,400 MMBtu annually of preferred interruptible gas and 380 MMBtu daily of firm natural gas.

The estimated cost of the proposed facilities is approximately $125,000, which cost is proposed to be financed out of funds on hand.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on September 22, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization, and upon consideration of the record,

The Commission finds:

(1) Applicant, Florida Gas Transmission Company, a Delaware corporation having its principal place of business in Winter Park, Florida, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by

the Commission in its order issued July 3, 1963, in Docket No. CP63-277 (30 FPC 27).

(2) The proposed construction and operation of facilities and transportation and delivery of natural gas, as hereinbefore described and as more fully described in the application and exhibits in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed construction and operation of facilities and transportation and delivery of natural gas are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with Section 155.1 and all other applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the certificate be granted on the express condition that the interruptible service authorized herein should be curtailed or interrupted to the extent required to meet existing or future contracted maximum delivery obligations of Applicant for firm service to its customers.

The Commission orders:

(A) A certificate of public convenience and necessity be and the same is hereby issued to the Applicant in this proceeding, authorizing the construction and operation of facilities and the transportation and delivery of up to 380 MMBtu per day of firm and 442 MMBtu of interruptible natural gas per day as hereinbefore described and as more fully described in the application in this proceeding, subject to the jurisdiction of the Commission, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are hereby conditioned upon Applicant's compliance with Section 155.1 and all other applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The facilities hereby authorized shall be completed as authorized in paragraph (A) above as provided for in paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within 6 months from the date on which this order issues.

(D) The certificate issued in paragraph (A) above is granted on the express condition that the interruptible service auhorized herein shall be curtailed or interrupted to the extent required to meet existing or future contracted maximum delivery obligations of Applicant for firm service to its customers.

(E) The certificate issued shall not entitle the industrial customer to whom firm deliveries are authorized herein to any priorities or rights to additional gas for meeting any future increases in its requirements at the expense of firm resale customers desiring to acquire additional gas to meet any future increases in their requirements.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and Carl E. Bagge.

THE MANUFACTURERS LIGHT AND HEAT COMPANY, AND CUMBERLAND AND ALLEGHENY GAS COMPANY, DOCKET NO. CP66-407

FINDINGS AND ORDER AFTER STATUTORY HEARING, PERMITTING AND APPROVING ABANDONMENT AND ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued September 23, 1966)

On June 8, 1966, The Manufacturers Light and Heat Company (Applicant), filed in Docket No. CP66-407 an application and amendment on August 16, 1966, joining Cumberland and Allegheny Gas Company (C and A), an affiliate, as an Applicant, pursuant to Sections 7(b) and 7(c) of the Natural Gas Act for permission and approval to abandon certain natural gas pipeline facilities and for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline facilities, all as more fully set forth in the application and amendment.

Manufacturers seeks authorization to construct and operate, (1) 1.0 mile of 8-inch pipeline as a replacement of its 1.0 mile, 6-inch Line No. 1058 in Buffalo District, Brook County, West Virginia; (2) 2.0 miles of 6-inch pipeline as a replacement of a 2.0 mile section of its 4-inch Line No. 1144 in Magnolia and Proctor Districts, Wetzel County, West Virginia; and (3) a tap on its Line No. 1804 and 199 feet of 6-inch gas transmission pipeline in Elk Lick Township, Somerset County, Pennsylvania, to provide a point for delivery of gas by C and A to Applicant under an exchange arrangement with C and A. Applicant also requests permission and approval to abandon, (1) 1.7 miles of its 8-inch Line No. 17 in Richhill Township, Greene County, Pennsylvania, and (2) its entire Line No. 949, consisting of 1.1 miles of 2-inch pipeline in Liberty District, Marshall County, West Virginia.

Applicant states that the pipelines are to be replaced and abandoned due to age and condition and to maintain dependable service.

The total estimated cost of Applicant's proposed construction is $129,400 which cost will be financed as a part of Applicant's 1966 construction program through the issuance and sale of installment promissory notes or common stock to its parent company, The Columbia Gas System, Inc.

Cumberland and Allegheny Gas Company (C and A) made application on August 16, 1966, filed as an amendment to the application of Manufacturers, for authorization to construct and operate 5 miles of combined 4-inch and 6-inch pipeline for the purpose of establishing an additional point of exchange between Manufacturers and Cumberland and Allegheny Gas Company.

The 5.0 mile combined 4-inch and 6-inch pipeline will extend from the site of the completed well in Garrett County, Maryland, north to the Maryland-Pennsylvania state line, where it will connect with the southerly end of the 199 feet of 6-inch pipeline proposed to be constructed under Project No. 5 in the original Application in Somerset County, Pennsylvania. The estimated construction cost of the facilities is $164,000, and will be financed as part of its total construction program through the issuance and sale of notes or common stock to its parent company, The Columbia Gas System, Inc.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application and amendment has been filed.

At a hearing held on September 22, 1966, the Commission on its own motion received and made a part of the record in the proceeding all evidence, including the application and exhibits, submitted in support of the authorizations sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, The Manufacturers Light and Heat Company, a Pennsylvania corporation and a subsidiary of The Columbia Gas System, Inc., having its principal place of business in Pittsburgh, Pennsylvania, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of December 29, 1944, in Docket No. G-593, *et al.* (4 FPC 821).

(2) Applicant, Cumberland and Allegheny Gas Company, a West Virginia corporation having its principal place of business in Pittsburgh, Pennsylvania, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order issued January 5, 1944, in Docket No. G-387 (4 FPC 472).

(3) The facilities proposed to be abandoned by Manufacturers as hereinbefore described and as more fully described in the application herein, are used in the transportation and sale of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the abandonment thereof is subject to the requirements of Subsection (b) of Section 7 of the Natural Gas Act.

(4) The proposed abandonment of the aforesaid facilities is permitted by the public convenience and necessity and approval therefor should be granted as hereinafter ordered.

(5) The proposed exchange of natural gas, construction and operation of facilities, by Manufacturers and Cumberland and Allegheny and the transportation of natural gas in interstate commerce, as hereinbefore described and as more fully described in the application and amendment and exhibits filed in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(6) The aforesaid proposed exchange of natural gas, construction and operation of facilities and the transportation of natural gas are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(7) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(8) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Manufacturers' and Cumberland's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

The Commission orders:

(A) Permission for and approval of the abandonment of the facilities hereinbefore described, as more fully described in the application in this proceeding, are granted to Applicant, The Manufacturers Light and Heat Company.

(B) Manufacturers shall advise the Commission of the date of abandonment of the facilities as authorized in paragraph (A) above within ten days of such abandonment.

(C) A certificate of public convenience and necessity is issued to Applicants, The Manufacturers Light and Heat Company and Cumberland and Allegheny

Gas Company, authorizing the exchange of natural gas, the construction and operation of facilities and the transportation of natural gas in interstate commerce, as hereinbefore described, all as more fully described in the application and amendment and exhibits filed in this proceeding, upon the terms and conditions of this order.

(D) The certificate issued by paragraph (C) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

(E) The facilities authorized by paragraph (C) above shall be completed and placed in operation with 12 months from the date of the issuance of this order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and Carl E. Bagge.

NATURAL GAS PIPELINE COMPANY OF AMERICA, DOCKET NO. CP67–29

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued September 23, 1966)

On August 8, 1966, Natural Gas Pipeline Company of America (Applicant), filed in Docket No. CP67–29 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing an increase in the firm quantity of natural gas to be transported and delivered to Phillips Petroleum Company (Phillips), an existing customer of Applicant, all as more fully set forth in the application.

Applicant is presently authorized to transport and deliver to Phillips, for use in its Beatrice, Nebraska, ammonia plant, 24,000 Mcf of gas per day on a firm basis and up to 2,000 Mcf of gas per day on an off-peak basis[1]. Applicant states that pursuant to the exercise of an option granted in Article V of its contract with Phillips dated July 7, 1964, Phillips has elected to convert 1,000 Mcf per day of off-peak gas to firm gas increasing the total firm delivery quantity to 25,000 Mcf per day. Applicant further states that with the commencement of the additional firm deliveries of 1,000 Mcf per day the quantity of off-peak gas will be correspondingly reduced by 1,000 Mcf so that the total off-peak quantity will be 1,000 Mcf of gas per day.

Applicant will not require additional facilities to make the proposed sale.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on September 22, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought, and upon consideration of the record,

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[1] Pursuant to Commission orders issued October 12, 1964, in Docket No. CP65–16, 32 FPC 980, issued August 13, 1965, in Docket No. CP65–169, 34 FPC 507, and issued May 27, 1966, in Docket No. CP66–262, 35 FPC 831.

The Commission finds:

(1) Applicant, Natural Gas Pipeline Company of America, a Delaware corporation having its principal place of business in Chicago, Illinois, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of November 7, 1958, in Docket No. G–9966 (20 FPC 694).

(2) The proposed transportation and delivery of natural gas by Applicant to Phillips as hereinbefore described, and as more fully described in the application, in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed transportation and delivery of natural gas is required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with Section 155.1 and all other applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (e), (f) and (g) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, authorizing the transportation and delivery of natural gas to Phillips, as hereinbefore described and as more fully described in the application in this proceeding, and upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with Section 155.1 and all other Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (e), (f) and (g) of Section 157.20 of such Regulations.

(C) The services authorized shall be commenced, as provided by paragraph (b) of Section 157.20 of the aforesaid Regulations within 6 months of the date on which this order issues.

(D) The certificate issued shall not entitle the industrial customer to whom firm deliveries are authorized herein to any priorities or rights to additional gas for meeting any future increases in its requirements at the expense of firm resale customers desiring to acquire additional gas to meet any future increases in their requirements.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and Carl E. Bagge.

UNITED GAS PIPE LINE COMPANY AND TEXAS EASTERN TRANSMISSION CORPORATION, DOCKET NO. CP67-26

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued September 23, 1966)

On August 8, 1966, United Gas Pipe Line Company (United Gas) and Texas Eastern Transmission Corporation (Texas Eastern), collectively referred to as Applicants, filed in Docket No. CP67-26 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of two additional points of delivery for the exchange of natural gas, all as more fully set forth in the application.

Applicants propose pursuant to their letter agreement of July 12, 1966, to construct and operate two interconnections, with the requisite facilities, between their respective pipeline systems for the exchange of natural gas at the following locations:

(1) At the intersection of Texas Eastern's 24-inch Provident City-Blessing line and United's 30-inch Agua Dulce-Sterlington line in Jackson County, Texas.

(2) At a point on Texas Eastern's 36-inch Venice line where it crosses United's 12-inch Valentine Field Line, Lafourche Parish, Louisiana.

Applicants exchange natural gas under exchange agreements between them dated August 5, 1948, and March 29, 1954, as supplemented and amended. The exchange agreements are on file and in effect with the Commission as United's Rate Schedules X-2 and X-3 and Texas Eastern's Rate Schedule X-6.

The total estimated cost of the proposed facilities is $180,795, which cost will be financed out of general funds with United constructing and financing the Jackson County, Texas, interconnection and Texas Eastern constructing and financing the Lafourche Parish, Louisiana, interconnection.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on September 22, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits submitted in support of the authorizations sought and upon consideration of the record,

The Commission finds:

(1) Applicant, United Gas Pipe Line Company, a Delaware corporation having its principal place of business in Shreveport, Louisiana, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of November 10, 1942, in Docket No. G-232 (3 FPC 863).

(2) Applicant, Texas Eastern Transmission Corporation, a Delaware corporation having its principal place of business in Shreveport, Louisiana, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of March 30, 1949, in Docket No. G-1089 (8 FPC 228).

(3) The proposed exchange of natural gas between the Applicants, and the construction and operation of the proposed facilities for the transportation of natural gas in interstate commerce, as hereinbefore described and as more fully described in the joint application and exhibits in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(4) The aforesaid proposed exchange and delivery of natural gas and the construction and operation of facilities are required by the public convenience and necessity, and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Applicants are able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that United Gas and Texas Eastern shall amend their respective FPC Rate Schedules to include the new delivery points in accordance with the applicable Commission Regulations.

(7) Public convenience and necessity require that the certificates issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to the Applicants in this proceeding, jointly, authorizing the exchange and delivery of natural gas as hereinbefore described, and the construction and operation of facilities for the transportation of natural gas in interstate commerce, as hereinbefore described and as more fully described in the joint application and exhibits in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicants' compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be completed and placed in actual operation, as provided by paragraph (b) of Section 157.20 of the aforesaid Regulations within 6 months of the date on which this order issues.

(D) United Gas and Texas Eastern shall file amended rate schedules to their respective FPC Gas Tariffs in accordance with the Commission's Regulations.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and Carl E. Bagge.

CITIES SERVICE GAS COMPANY, DOCKET NO. CP66-419

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued September 26, 1966)

On June 20, 1966, Cities Service Gas Company (Applicant) filed in Docket No. CP66-419 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and the delivery and sale of natural gas to The Gas Service Company (Gas Service) for resale and the transportation and delivery of natural gas to Magnolia Pipe Line Company (Magnolia) for use by the latter as fuel at its Williamstown Pump Station, Jefferson County, Kansas, all as more fully set forth in the application in this proceeding.

Specifically, Applicant proposes the following:

(1) The construction and operation of approximately 2.6 miles of 2-inch line in Douglas and Jefferson Counties, Kansas, connecting Applicant's existing

6-inch line with Magnolia's pump station, together with the necessary metering and appurtenant facilities,

(2) The tapping of Applicant's existing 16-inch line in Shawnee County, Kansas, and the construction and operation of the necessary metering and appurtenant facilities for the sale and delivery of natural gas to Gas Service for resale in and about the Shawnee Heights Area, Shawnee County, Kansas, and

(3) The sale and delivery of natural gas by means of existing Kansas City area facilities to Gas Service for resale in and about the City of Greenwood, Jackson County, Missouri.

Applicant and Magnolia have entered into a gas sales contract, dated February 4, 1966, providing for the proposed direct sale to Magnolia. Magnolia's estimated third year peak day and annual requirements are 340 Mcf and 124,320 Mcf, respectively.

The estimated third year peak day and annual requirements for the Shawnee Heights Area are 160 Mcf and 16,327 Mcf, respectively, and for the City of Greenwood 1,127 Mcf and 88,400 Mcf, respectively. The proposed sales for resale will be made pursuant to Applicant's effective FPC Gas Rate Schedules F–2, C–2 and I–2.

The total estimated cost of Applicant's proposed facilities is $23,360, $10,000 of which will be paid by Magnolia, with the remaining costs to be financed by Applicant from cash on hand.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on September 22, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Cities Service Gas Company, a Delaware corporation having its principal place of business in Oklahoma City, Oklahoma, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of December 28, 1943, in Docket No. G–298 (4 FPC 471).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are to be used in the transportation and/or sale of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof and the proposed transportation and/or sale of natural gas by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities and the proposed transportation and/or sale of natural gas by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs

(a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Applicant, Cities Service Gas Company, to construct and operate the proposed facilities and to sell and/or transport and deliver natural gas as hereinbefore described, all as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be constructed and placed in actual operation and the sale and/or transportation and delivery of natural gas authorized in paragraph (A) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within six months from the date on which this order issues.

(D) This certificate shall not entitle the industrial customer to whom firm deliveries are authorized herein to any priorities to additional gas for meeting any future increases in its requirements at the expense of firm resale customers desiring to acquire additional gas to meet any future increases in their requirements.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and Carl E. Bagge.

CITIES SERVICE GAS COMPANY, DOCKET NO. CP67-25

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued September 26, 1966)

On August 3, 1966, Cities Service Gas Company (Applicant) filed in Docket No. CP67-25 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continued operation of certain installed facilities and the transportation and sale of natural gas for resale in interstate commerce in connection therewith, all as more fully set forth in the application.

Applicant seeks authority to tap its 4-inch field gathering line in Section 222, H & GN Survey, R. R. Co. Block B-2, Gray County, Texas, and there install and operate metering and appurtenant regulating facilities and sell up to 995 Mcf of natural gas daily to Rimrock Gas Company (Rimrock) for resale for irrigation and incidental farm purposes to customers in the Groom, Texas, area. Applicant states that the sale will be made under its FPC Gas Rate Schedule IRG-1.

Applicant estimates that the total cost of the facilities is $1,440, which will be financed from cash on hand.

Applicant states the related facilities were installed and service was commenced on July 16, 1966, as an emergency measure under the provisions of Section 157.22 of the Regulations. Applicant advised the Commission of its actions by letter, filed July 18, 1966. Rimrock has contracted to sell gas to farmers in the area for irrigation and other farm uses.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on September 22, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits submitted in support of the authorization sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, Cities Service Gas Company, a Delaware corporation having its principal place of business in Oklahoma City, Oklahoma, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of December 28, 1943, in Docket No. G–298 (4 FPC 471).

(2) The proposed continued operation of facilities, and transportation and sale of natural gas by Applicant as hereinbefore described and as more fully described in the application and exhibits in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid continued operation of facilities and transportation and sale of natural gas are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (c)(4) and (e) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, Cities Service Gas Company, authorizing the continued operation of facilities and the transportation and sale of natural gas as more fully described in the application and exhibits in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(4) and (e) of Section 157.20 of such Regulations.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

DUKE POWER COMPANY, PROJECT NO. 2503

ORDER ISSUING LICENSE (MAJOR)

(Issued September 26, 1966)

On January 4, 1965, Duke Power Company (Applicant), filed an application seeking a license pursuant to Section 4(e) of the Federal Power Act for the development of the Keowee-Toxaway hydroelectric project (Project No. 2503), to be located on the Keowee, Little, Whitewater, Toxaway, Thompson and

Horsepasture Rivers, all tributaries of the Savannah River. The project, which has an estimated cost of $86,319,000, would impound the waters of these rivers in Oconee and Pickens Counties, South Carolina and in Transylvania County, North Carolina.

The Horsepasture, Toxaway, Thompson and Whitewater Rivers arise on the southerly slopes of the Blue Ridge Mountains in Jackson and Transylvania Counties, North Carolina and flow into northwestern South Carolina and join to form the Keowee River which unites with 12 Mile Creek to form the Seneca River which in turn joins with the Tugaloo River to form the Savannah River about 297 miles above the mouth of the Savannah River.

The project proposed by the Applicant would consist of two hydroelectric developments, the Keowee Development and the Jocassee Development. The Keowee Development will consist of two dams impounding the waters of the Little and Keowee Rivers in Oconee and Pickens Counties, South Carolina. One dam and a series of saddle dikes would be built on the Little River near Newry, South Carolina, 2.7 miles from the mouth of the Little River and 347.3 miles from the mouth of the Savannah. This dam and associated saddle dikes would divert the entire flow of the Little River, except for some minor withdrawals, through a connecting canal into the Keowee Valley. A dam on the Keowee near Old Pickens would back up the waters of the Keowee and complete the impoundment. This dam would be located 351.5 miles from the mouth of the Savannah. The waters backed up by these two dams will be connected by a diversion canal located in a small saddle and will form a single reservoir impounding the flows of both the Keowee and Little Rivers. The powerhouse would be built at the dam near Old Pickens and would contain two units rated at 70,000 kilowatts each.

The Jocassee Development will be located on the Keowee River at the head of Lake Keowee and just below the confluence of the Whitewater and Toxaway Rivers. The Jocassee dam will be located about 366 miles upstream from the mouth of the Savannah. The reservoir formed by this dam would back up the Whitewater, Horsepasture, Thompson and Toxaway Rivers and would extend into Transylvania County, North Carolina. The powerhouse would be located at the dam and would contain one conventional unit rated at 160,000 kilowatts and three pumped-storage units rated at 150,000 kilowatts each.

Applicant will initially construct the Keowee development and will commence construction of certain Jocassee diversion works approximately one year after commencing construction on the Keowee development.

The Hartwell and Clark Hill dams constructed by the Corps of Engineers are located on the Savannah River downstream from the proposed project at river miles 305 and 239 respectively. The Trotters Shoals dam site proposed to be developed by the Corps is located between these two dams at river mile 276. Construction and operation of the Keowee-Toxaway project would affect the operation of these dams.

The Keowee and Little Rivers on which the project will be located are tributaries of the Savannah River, a navigable water of the United States. See *United States* v. *Twin City Power Co.*, 350 U.S. 222. Power produced from the project will be marketed to customers of the Applicant in North and South Carolina and will be marketed by other members of the CARVA Pool[1] serving in the two Carolinas and Virginia.

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[1] The members of the CARVA Pool are: Duke Power Company, Carolina Power & Light Company, South Carolina Electric & Gas Company, and Virginia Electric and Power Company.

The United States Corps of Engineers recommended the development of a number of hydroelectric sites in the Savannah River Basin in its report to Congress in 1944 (House Document 657, 78th Congress, 2d Session). Included among the developments recommended by the Corps was one at the site of Applicant's proposed Keowee Development. The name given at that time to the Corps' proposed site was Newry-Old Pickens. The Corps' plans, like those of the Applicant, contemplated a reservoir with an elevation of 800 feet to be formed by two dams at this site, one on the Keowee River and one on the Little River with respective reservoirs connected by a canal. The Corps' proposal, however, provided for maximum drawdowns and an installed capacity different from those now proposed by the Applicant. The studies of the Corps at that time did not contemplate any developments upstream from the Newry-Old Pickens or Keowee site.

In 1963 the U.S. Study Commission, Southeast River Basins, issued its report on the Savannah River Basin (*Appendix 1, Report of U.S. Study Commission, Southeast River Basins*). The Study Commission reviewed the Corps' 1944 report and recommended development of the Newry-Old Pickens (Keowee) site along the same lines as originally proposed by the Corps and as now proposed by the Applicant. In addition the Study Commission recommended the development upstream on the Keowee River of the Jocassee site. The dam site and powerhouse location proposed by the Study Commission for the Jocassee site are similar to those now proposed by the Applicant. The upper reservoir elevation at Jocassee proposed by the Applicant, however, would be 10 feet higher than that proposed by the Study Commission for this site. In addition the Study Commission recognized pumped-storage operations at Jocassee using the Newry-Old Pickens reservoir as a lower pool as a potential advantage of this development.

The Applicant's plans for the development of this stretch of the Savannah River Basin include not only the Keowee and Jocassee developments to which its present application relates but also contemplate the construction of future steam and pumped storage plants. Applicant expects Lake Keowee to furnish condenser cooling waters for up to 7000 mw of steam generated electric power, and as part of its application for the Keowee and Jocassee developments it is asking this Commission to approve the use of the Keowee reservoir for the generation of up to 3000 mw of steam electric power. This plant would be located near the Keowee River dam. A low level intake would be provided for this plant on the bottom of Keowee Lake; and after passing through the condensers, the water would be discharged through a canal into the Little River arm of Lake Keowee. Applicant currently is planning to construct at this site on Lake Keowee two nuclear fired steam units with a combined net peak capability of 1,644 mw. The estimated cost of these nuclear units is $207,000,000. Contracts for these units have been let and Applicant's construction schedule calls for their commercial operation by May 1971 and May 1972 respectively.

Applicant's plans for the future development of this waterway also contemplate the construction of pumped-storage units on the Horsepasture River. Such units would use the presently proposed upper Jocassee reservoir as a source for pumping water for any such pumped-storage developments. To date Applicant has made preliminary design studies for such a future pumped-storage development with a peak capability of 2,300 mw. The total head would be 1,180 feet. This plant would be located on the Horsepasture River at a site called Bad Creek and would cost approximately $136.8 million. Applicant estimates that such additional peaking power will be needed by approximately 1984.

By order dated May 12, 1966, the Commission set the subject application for hearing. Testimony and exhibits were filed by the Applicant and by the Commission Staff and a public hearing was held on August 16, 1966, before a Presiding Examiner of this Commission.

At this hearing Applicant's witnesses testified, among other things, as to the need for the power to be produced by the project, the alternative sources of power considered by the Applicant, the additional economic power developments both thermal and hydro which the Applicant believes will be made possible by the construction of the Keowee-Toxaway project and finally as to the recreational program proposed by the Applicant at the project.

Staff witnesses, among other things, testified as to the future requirements for peaking power in the CARVA Pool service area; the estimated economic advantages of some 60 potential hydro projects in the CARVA Pool area, including the Keowee-Toxaway and Trotters Shoals projects; the safety and adequacy of the proposed project; the estimated costs of alternative sources of power for the Applicant; and as to the adequacy of the recreation program proposed by the Applicant.

It appears from the record made in this proceeding that the output from the Keowee-Toxaway Project will complement existing CARVA peaking capacity in supplying the peak demands of the CARVA Pool loads in the years in which the project is scheduled to be in service, and that the proposed project would develop the entire head available between elevation 660 feet, the water surface of the Hartwell Reservoir, and elevation 1,110 feet, the maximum water surface elevation of the upper Jocassee Reservoir.

Witnesses for the Applicant compared the estimated fixed annual costs of the proposed project with similar estimated costs for an alternate fossil-fuel plant, an alternate pumped-storage plant, and an alternate gas turbine plant. In each case the estimated costs of the proposed project were the lower. A witness for the staff compared an estimated cost of the proposed project with the following alternatives: each of 60 potential hydro sites in the CARVA Pool area, a fossil-fuel plant, a pumped-storage project, a gas turbine plant, and a nuclear plant. In each case, the estimated costs of the proposed project were lower than any of the alternatives studied by the staff.

Applicant has filed a recreational plan pursuant to the Commission's Regulations which provides for 455 acres of access areas at the Keowee development and 265 acres of access areas at the Jocassee development. A witness for the staff, while noting a number of aspects of the recreational program which might require improvement and expansion to meet future needs, recommended approval of the Exhibit R filed by the Applicant.

On May 7, 1965 the Corps of Engineers submitted its comments on the subject application and reported that the applicant's proposed project structures affecting navigation are satisfactory. The Corps recommended that any license issued should include provisions to insure that construction and operation of Applicant's project would not impair realization of the benefits associated with operation of the downstream Corps projects. The Corps also recommended that Applicant's project and the Corps projects be hydraulically coordinated in the interest of achieving maximum public benefits. By Articles 31, 32, 33, and 34 we are including license conditions to protect the interests of the United States in its projects.

The Department of Health, Education, and Welfare (HEW) in its comments filed on May 7, 1965 reported that the effects of the project on water supply and water pollution are not expected to be significant in that area of the project located in South Carolina, since the area is undeveloped and appears likely to continue that way. HEW further reported that the State of North Carolina has indicated that the proposed development in that State should be beneficial, and that there are no known pollution sources which would affect water supplies or recreation.

The Secretary of the Interior in a letter, dated July 28, 1965, made the following recommendations with respect to the proposed project: (1) the project should be fully integrated, both hydraulically and electrically, with downstream Federal projects, (2) reservoir filling procedures should be agreed upon with Southeastern Power Administration and the Corps of Engineers, (3) conditions for the protection of fish and wildlife should be included in the license, (4) the license should require a detailed plan of development for free public utilization of project waters and adjacent project lands for recreation purposes pursuant to Federal regulations as set forth in FPC Order No. 260-A, 29 FPC 777, (5) Applicant should be required to safeguard natural beauty values, (6) the National Park Service should be provided $2,500 with which to conduct an archeological survey.

In a letter dated April 7, 1966, Interior indicated its support of the Applicant's proposed maximum drawdowns and reported that studies carried out by the Fish and Wildlife Service enabled it to conclude that the thermal effects of a 3000 mw nuclear plant at a site on Lake Keowee designated as "Site L" would produce no detrimental effects upon the fishery resources within Lakes Jocassee or Keowee. However, the Department recommended that any license issued for the proposed project require Commission approval prior to the installation on the Keowee reservoir of thermal-electric plants additional to 3000 mw. It recommended two articles, for inclusion in any license issued, which would require (1) that construction of steam plants, other than the proposed 3000 mw plant at "Site L", be subject to the approval of the Commission based on Interior's recommendations, (2) that data from monitoring thermal effects of steam plant operations at "Site L" be furnished to Interior for its use in making recommendations on steam plants that may be proposed for construction in the future.

By a letter dated May 20, 1966, Interior reported that the recreational development plan proposed by the Applicant affords an adequate base for the development of the recreation potential of the project and recommended that conditions relating to future recreation development be included in any license issued for the project.

License conditions are contained herein to protect the interests of the Corps of Engineers and the Department of the Interior. The reservoir filling agreement requested by Interior and the Corps is provided for by Article 31. By Article 32 Applicant is being required to enter into an operating agreement with the Corps and with the Interior Department for the protection of capability of the downstream Federal projects. Interior's request with respect to archeological exploration is met by Article 39 and Interior's concern for the protection of fish and wildlife is met by Articles 16 and 17 of Form L-11 which is being made a part of this license, *infra*, p. 687. Interior's request for license conditions to assure future recreation development at the project is provided for by Article 41.

Petitions to intervene in opposition to the application were filed by the Bi-State Power Committee[2], a group representing various REA cooperatives in the States of Georgia and North Carolina; by the Blue Ridge Electric Membership Corporation; by the Oconee Electric Membership Corporation; and by the Secretary of the Interior. Bi-State and the two aforesaid cooperatives were permitted to intervene in this proceeding (Interveners). The Secretary of the Interior, however, withdrew his petition to intervene prior to any Commission action on his petition. Bi-State filed several pleadings in this proceeding in opposition to the application, all of which were adopted by the two intervening cooperatives.

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[2] The petition was originally filed in the name of Tri-State Power Committee. An amendment to this petition filed on September 22, 1965, advised the Commission that the name of the intervener had been changed to Bi-State Power Committee.

Originally interveners asked the Commission to deny the application and pursuant to Section 7(b) of the Federal Power Act to recommend federal development of all remaining potential projects in the Savannah River Basin. Interveners later amended their petitions by omitting their request for federal development and by taking the position instead that the construction of the Keowee-Toxaway Project before the development of the Trotters Shoals site on the Savannah River would violate the plan for the comprehensive development of the Savannah River Basin adopted and approved by Congress in the Flood Control Act of 1944 (58 Stat. 887, 894).

On July 25, 1966, after the application had been set for hearing, interveners filed a notice of withdrawal of their petitions to intervene in this proceeding. As a reason for their withdrawal they pointed out that various "key officials of the State of South Carolina" who had previously opposed the Trotters Shoals development, had recently elected, along with the Duke Power Company, to endorse federal development of that site and to work for Congressional authorization of Trotters Shoals this year. The interveners concluded in their notice of withdrawal that these developments remove the primary basis for their objection to the Keowee-Toxaway Project application.

Although interveners withdrew their request for federal development of the Keowee-Toxaway Project at an early stage in this proceeding, we have, nevertheless, examined the record on our own to determine whether there may be some reason why this project should be developed by the federal government. Our review of this record and our general knowledge of the Savannah River Basin reveals no reason to warrant a recommendation to Congress pursuant to Section 7(b) of the Federal Power Act that this project be developed by the federal government. In our judgment there are not any significant improvements or benefits which might accrue as a result of federal development in addition to those proposed by the Applicant or otherwise provided for by this order. Accordingly, we are not recommending federal development of the site proposed for development by Applicant. Nor do we believe that either legally or factually there is any reason to defer the licensing of the Keowee-Toxaway Project until after the development of the Trotters Shoals site.

At the public hearing held on this application, a resident of Winston-Salem, North Carolina, Mr. Lawrence G. Pfefferkorn, objected to the issuance of any license to Duke Power Company for this project which did not contain a condition prohibiting Duke Power Company from opposing the development of various projects on the Yadkin River in North Carolina. However, the activity of a licensee in opposing the development of hydroelectric sites does not appear to be one which this Commission has been empowered to curtail except to the extent that such activity may be in violation of Section 10(h) of the Federal Power Act. That section proscribes, *inter alia*, combinations or agreements to limit the output of electrical energy. On the basis of the statements made on this record, assuming their factual validity, it does not appear that the Duke Power Company's opposition to various projects on the Yadkin River has constituted a violation of Section 10(h). See *Eastern Railroad Conference* v. *Noerr*, 365 U.S. 127.

At the conclusion of the hearing the Applicant made a motion to waive the filing of briefs, the presentation of proposed findings, and oral argument and to omit the intermediate decision of the examiner. The Staff concurred in this motion which was granted pursuant to Section 1.30(c) of the Commission's Rules of Practice and Procedure.

The Commission finds:

(1) The Applicant is a corporation organized under the laws of North Carolina and has submitted satisfactory evidence of compliance with all applicable state laws insofar as necessary to effectuate the purposes of the license for the proposed project.

(2) Public notice of the filing of the application has been given. Except for the petitions to intervene, hereinbefore discussed, no other petitions to intervene or formal protests have been filed and no conflicting application is before the Commission.

(3) The project will be located on a tributary of a navigable water of the United States.

(4) Electric energy to be generated at the project will at times be transmitted into the states of North Carolina and Virginia and therefore the interests of interstate commerce will be affected by the proposed project.

(5) The power to be produced by the project is needed to meet the load growth in the service areas of the Applicant and of Applicant as a member of the CARVA Pool.

(6) The applicant has submitted satisfactory evidence of its financial ability to construct and operate the project.

(7) The estimated cost of developing the Keowee-Toxaway Project when compared with estimated costs to the Applicant of developing alternative sources of power appears reasonable.

(8) The use of the Keowee Reservoir at the site designated on Exhibit K (FPC No. 2503-4) as a source of condenser cooling waters for up to 3000 mw of steam generated electric power will produce no detrimental effects upon the fishery resources within Lake Keowee and such use is compatible with a comprehensive plan for improving and developing the subject waterway.

(9) Subject to the terms and conditions hereinafter imposed, the project will be best adapted to a comprehensive plan for improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, for the improvement and utilization of water power development, and for other beneficial public uses, including recreational purposes.

(10) The installed horsepower capacity of the project hereinafter authorized for the purpose of computing the capacity component of the administrative annual charge is 1,000,000 horsepower and the amount of annual charges based on such capacity to be paid under the license for the project, for the costs of administration of Part I of the Act is reasonable.

(11) The issuance of a license as hereinafter provided will not affect the development of any water resources for public purposes which should be undertaken by the United States.

(12) The exhibits designated and described in paragraph (B) following conform to the Commission's rules and regulations with respect to the project boundary, capacities of reservoirs, size of water passages, capacities of generating units, general design of structures and recreation development of the

project and should be approved as part of this license. The Applicant should, as hereinafter provided, supply revised exhibits for Commission approval.

The Commission orders:

(A) This license is hereby issued to the Duke Power Company of Charlotte, North Carolina (Licensee), under Section 4(e) of the Federal Power Act for a period of 50 years effective as of September 1, 1966, for the construction, operation and maintenance of Project No. 2503 located on the Keowee and Little Rivers, South Carolina and North Carolina subject to the terms and conditions of the Act and subject to such rules and regulations as the Commission has issued or prescribed under the provisions of the Act.

(B) Project No. 2503 consists of:

(i) all lands constituting the project area and enclosed by the project boundary or limits which are otherwise defined, and/or interest in such lands necessary or appropriate for the purposes of the project, whether such lands or interests therein are owned or held by the Licensee or by the United States—such project area and project boundary being more specifically shown and described by certain Exhibits of the application for license which are designated as follows:

Exhibit J	*FPC No. 2503*	*Title*
Sheet 1	–2	"General Map and Profile"
Sheet 2	–3	"Transmission System Map"

Exhibit K	*FPC No. 2503*	*Title*
Sheet 1	–4	"Keowee Development, Project Area"
Sheet 2	–5	"Keowee Development, Project Area"
Sheet 3	–6	"Jocassee Development, Project Area"

Exhibit K is approved only to the extent that it shows the reservoir areas at pool elevations 800 feet and 1,110 feet for Lakes Keowee and Jocassee, respectively.

(ii) Projects which are described as follows:

Keowee Development—(1) an earth-fill dam 150 feet high and 1,800 feet long on Little River 2.7 miles above its mouth; (2) an earth-fill dam 170 feet high and 3,500 feet long on Keowee River at river mile 351.5 above the mouth of the Savannah; (3) several saddle dikes; (4) two reservoirs having a total capacity of 911,000 acre-feet at full pond elevation 800 feet USGS, 388,000 acre-feet usable, connected by a canal diverting practically the entire flow of Little River into the Keowee Reservoir; (5) a concrete spillway 176 feet wide equipped with tainter gates with ogee crest at elevation 765 feet USGS located at Keowee Dam; (6) two concrete and steel penstocks at Keowee Dam; (7) an indoor type powerhouse containing two Francis type turbines each connected to a vertical generator rated at 70,000 kw (140,000 kw total); (8) generator leads; (9) 13.8/230 kv step-up transformer; and (10) appurtenant facilities.

Jocassee Development—(1) a rockfill dam with impervious core, 385 feet high and 1,750 feet long on Keowee River at river mile 366.5 above the mouth of the Savannah; (2) a reservoir with total capacity of 1,143,000 acre-feet at full pond elevation 1,110 feet USGS; (3) a concrete spillway 88 feet wide equipped with tainter gates having ogee crest at elevation 1,078 feet USGS; (4) an intake structure and two concrete and steel penstocks; (5) an outdoor type powerhouse containing initially, one conventional 160,000 kw vertical generating unit driven by a Francis type turbine and one vertical motor-generator and pump-turbine unit rated at 150,000 kw (310 mw total initial generating capacity) with provisions for two future similar motor-generator and pump-turbine units (610 mw total ultimate generating capacity); (6) the

Keowee Reservoir, serving as a lower pool for the pumped-storage operation; (7) generator leads; (8) 13.8/230 kv step-up transformers; and (9) appurtenant facilities; the location, nature and character of which are more specifically shown and described by the exhibits hereinbefore cited and by certain other exhibits which also formed part of the application for license and which are designated and described as follows:

Exhibit 1	*FPC No. 2503*	*Showing Keowee-Toxaway Project*
Sheet 1	–17	Keowee Development Plan
Sheet 2	–18	Keowee Development Sections and Details
Sheet 3	–19	Jocassee Development Plan
Sheet 4	–20	Jocassee Development Sections
Sheet 5	–11	Keowee and Jocassee Developments One Line Diagrams, only insofar as they show the general layout of the project.

Exhibit M, entitled "General Description of Mechanical, Electrical, and Transmission Equipment", consisting of five typewritten pages, filed on January 4, 1965, and amended on September 2, 1965.

(iii) Recreational and public access areas which are designated and described as follows:

(1) Exhibit R (FPC No. 2503–25, 26, 27, 28)

(2) Eight drawings entitled "Proposed Recreational Plan, Sites No. 1 through 8, dated March 30,

(3) Five typewritten sheets entitled respectively:

(a) "Type and Number of Recreation Facilities (Revised—March 30, 1966) Lake Keowee Access Areas, Lake Jocassee Access Areas."

(b) "Development Costs—Keowee-Jocassee Access Area (Revised March 30, 1966) Lake Keowee"

(c) "Development Costs—Keowee-Jocassee Access Areas (Revised March 30, 1966) Lake Jocassee [and] Total Development Costs of Access Areas—*Keowee and Jocassee Lakes* (Revised—March 30, 1966)"

(d) "Initial Development Costs (Revised March 30, 1966)"

(e) "Keowee-Jocassee Access Areas (Revised March 30, 1966) Estimated Initial and Ultimate Use."

(4) Seven typewritten pages entitled "Exhibit R Recreational Use Plan", and dated August 16, 1965.

(iv) all other structures, fixtures, equipment or facilities used or useful in the maintenance and operation of the project and located on the project area, including such portable property as may be used or useful in connection with the project or any part thereof, whether located on or off the project area, if and to the extent that the inclusion of such property as part of the project is approved or acquiesced in by the Commission; also, all riparian or other rights, the use or possession of which is necessary or appropriate to the maintenance or operation of the project.

(C) This license is also subject to conditions set forth in Form L–11 (Revised September 1, 1966) entitled "Terms and Conditions of License for Unconstructed Major Project Affecting The Interests of Interstate or Foreign Commerce," which terms and conditions designated as Articles 1 through 26 are attached hereto and made a part hereof, *infra*, p. 687, and subject to the following special conditions set forth herein as additional Articles:

Article 27. Licensee shall submit in accordance with the Commission's rules and regulations Exhibits J and L drawings showing final designs of the project works and the Licensee shall not begin construction of the project structures until the Commission has approved such exhibits. The stability of the fill-type dams and dikes shall be based on the properties of the materials of construction and shall conform to the design notes shown on the Exhibit L drawings (FPC Nos. 2503–18 and 20). The properties of the foundations for these dams and dikes should also be investigated and taken into consideration in the stability analyses.

Article 28. Licensee shall not initiate construction on Lake Keowee or Jocassee of any steam electric plant additional to the proposed 3000 mw plant at "Site L" (Exhibit K–FPC No. 2503–4) without prior approval of the Federal Power Commission.

Article 29. The Licensee will establish and carry out adequate monitoring of the thermal effects of "Site L" plant operation and collection of climatological data necessary for the Commission to establish the thermal effects of any steam-electric plants and Licensee may propose for construction in addition to the "Site L" plant.

Article 30. The Licensee shall operate the project in such a manner as to not exceed the maximum drawdowns at the Keowee and Jocassee reservoirs as stated below:

1. Maximum Drawdown without Pumped-Storage:
    Keowee, 22 feet (minimum elevation 778 feet).
    Jocassee, 24 feet (minimum elevation 1086 feet).
2. Maximum Drawdown with Pumped-Storage:
    Keowee, 25 feet (minimum elevation 775 feet).
    Jocassee, 30 feet (minimum elevation 1080 feet).

Article 31. The Licensee shall enter into a reservoir filling agreement with the authorized representative of the Chief of Engineers, Department of the Army, and of The Department of the Interior prior to initial filling of the reservoirs to insure either sufficient releases to the Federal Hartwell and Clark Hill projects consistent with the portion of the watershed affected by Project No. 2503 or take other acceptable measures to assure the firm power capacity of the Hartwell and Clark Hill projects which would have been available in the absence of Project No. 2503. A copy of the agreement shall be filed with the Commission. If agreement cannot be reached within six months prior to the proposed initiation of filling of the reservoirs, the Commission will prescribe the reservoir filling schedule, after notice and opportunity for hearing upon a finding based on substantial evidence that such schedule is necessary and desirable and consistent with the provisions of the Act.

Article 32. The Licensee shall, prior to beginning of operation, enter into an agreement with an authorized representative of the Chief of Engineers, Department of the Army and of The Department of the Interior requiring that the project be operated in such a manner as to assure the capability of the downstream existing Federal Projects (Hartwell and Clark Hill) to meet power generating requirements as would have been available in the absence of Project No. 2503. Further, such agreement should recognize the requirements for releases from Clark Hill reservoir for low flow control and other responsibilities in connection with operation of the Hartwell and Clark Hill reservoirs. A copy of the agreement should be filed with the Commission. If agreement cannot be reached within six months prior to the proposed date of operation of the project, the Commission will prescribe the method of operation, after notice and opportunity for hearing and upon a finding based on substantial evidence that such method is necessary and desirable and consistent with the provisions of the act.

Article 33. The Licensee shall operate the project reservoirs during flood periods so as not to cause peak discharges downstream greater than those which would have occurred in the absence of Project No. 2503 except due to acts of God.

Article 34. The Licensee shall furnish the authorized representative of the Chief of Engineers, Department of the Army such information as he may require, pertinent to the operation conditions at the project as may be necessary for forecasting flows downstream from the project.

Article 35. The Licensee shall commence construction of the project within one year from the effective date of the license and shall complete the construction of all project works at the Keowee Development by May 31, 1971. All of the project works of the Jocassee Development except for the final two units shall be completed by December 31, 1974. The final two units at Jocassee will be installed by May 31, 1978.

Article 36. The Commission reserves the right to determine what additional transmission facilities, if any, shall be included in this license as part of the project.

Article 37. The Licensee shall file, within three years of the effective date of this license revised Exhibits F and K, in accordance with Commission rules and regulations, to describe and show the project boundary as proposed by the Licensee.

Article 38. The Licensee shall cooperate with the South Carolina Water Pollution Control Authority, and, for the periods and duration requested by that Authority in the interest of pollution abatement and other beneficial public uses, Licensee shall release from the Keowee Development a minimum daily average flow of up to 152 cfs or such lesser amount as may be specified by the Authority. The discharge of water from the Keowee Development shall include all water flowing from the development, whether from leakage, spillage, generation, or otherwise. For purposes of checking compliance with this provision, the flows may be estimated from the operation of the turbines and from estimates of leakage checked by periodic actual measurements of discharge where pool conditions do not prevent such measurements.

Article 39. Licensee shall provide $2,500 to the South Carolina Department of Archeology to finance an archeological survey at the site of the Keowee and Jocassee Reservoirs.

Article 40. For the purpose of reimbursing the United States for the costs of administration of Part I of the Act, the Licensee shall pay to the United States a reasonable annual charge effective as of September 1, 1966, as determined by the Commission in accordance with the provisions of its regulations, in effect from time to time. The authorized installed capacity for such purposes is 1,000,000 horsepower.

Article 41. The Licensee shall submit for Commission approval supplements to the Exhibit R (FPC No. 2503–25, 26, 27, 28) which shall include, but not to be limited to, the following planning information:

(1) Not later than 18 months prior to completion of reservoir filling and preceding construction of any recreational facilities thereon, functional site development plans for the campsites, public access areas, and access service area at Jocassee Reservoir designated on Exhibit R, sheet 3, revised March

30, 1966, (FPC No. 2503-27) entitled "Keowee-Toxaway Project-Jocassee Development".

(2) Not later than one year prior to completion of each reservoir filling and preceding the construction of any recreational facilities thereon: (a) functional plans for any additionally needed recreational facilities or improvements such as: trails, natural swimming areas (beaches or swimming floats), boat docks, buffer zones around and within recreational areas, visitor centers, tailrace fishing access areas, access to islands, landscaping and tree planting, observation sites, shelters, and such safety features as markers, booms, signal beacons and navigation aids; (b) a construction schedule for all recreational facilities and improvements which shall include consideration in the initial construction period of any needed public use, health, and safety facilities; and (c) following a review and analysis of anticipated public use of the project, a report on the amount and location of any additional lands needed throughout the license period for recreational development and use. Said lands, if any, shall be included within the project boundary as delimited on final Exhibit K maps.

Article 42. The Licensee shall include within the project boundary all public access and recreational development areas designated on Exhibit R (FPC Nos. 2503-25, 26, 27), except the game management area shown on 2503-27 above contour elevation 804 feet approximately and shall include all islands within the project boundary as delimited on Exhibit K maps to be filed with the Commission.

Article 43. The Licensee shall, during planning for the relocation of all roads, highways, or other public or private ways across or over any portions of the areas to be inundated by the Keowee and Jocassee reservoirs, keep the Commission informed of plans for boat passageways to insure full recreational utilization of project waters.

Article 44. The Licensee shall engage a board consisting of at least three qualified independent consultants for the purpose or reviewing the plans and specifications for the dams and dikes, including their foundations, and the board shall submit a final report to the Commission approving the plans and specifications prior to initiation of construction of these structures. The board shall also make periodic inspections during construction and shall submit a final report to the Commission covering the construction of the dams and dikes upon their completion.

Article 45. The Licensee shall within six months of the date of issuance of this license submit for Commission approval a plan for clearing the reservoir area and upon approval the clearing shall be done to the satisfaction of the Commission's representative. The clearing plan shall be prepared following consultation with the Department of the Interior and the appropriate South and North Carolina conservation, health, and recreation agencies.

(D) The Licensee is hereby authorized to use Lake Keowee reservoir at a site designated as "Site L" on Exhibit K (FPC No. 2503-4) as a source for condenser-cooling waters for up to 3000 mw of steam-generated electric power.

(E) This order shall become final 30 days from the date of its issuance unless application for rehearing shall be filed as provided in Section 313(a) of the Act, and failure to file such an application shall constitute acceptance of this license. In acknowledgment of the acceptance of this license, it shall be signed for the Licensee and returned to the Commission within 60 days from the date of issuance of this order.

FORM L-11 (SEPTEMBER 1, 1966)

TERMS AND CONDITIONS OF LICENSE FOR UNCONSTRUCTED MAJOR PROJECT AFFECTING THE INTERESTS OF INTERSTATE OR FOREIGN COMMERCE

Article 1. The entire project, as described in the order of the Commission, shall be subject to all the provisions, terms, and conditions of the license.

Article 2. No substantial change shall be made in the maps, plans, specifications, and statements described and designated as exhibits and approved by the Commission in its order as a part of the license until such change shall have been approved by the Commission: *Provided, however:* That if the Licensee or the Commission deems it necessary or desirable that said approved exhibits, or any of them, be changed, there shall be submitted to the Commission for approval amended, supplemental, or additional exhibit or exhibits covering the proposed changes which, upon approval by the Commission, shall become a part of the license and shall supersede, in whole or in part, such exhibit or exhibits theretofore made a part of the license as may be specified by the Commission.

Article 3. Said project works shall be constructed in substantial conformity with the approved exhibits referred to in Article 2 herein or as changed in accordance with the provisions of said article. Except when emergency shall require for the protection of navigation, life, health, or property, no substantial alteration or addition not in conformity with the approved plans shall be made to any dam or other project works under the license without the prior approval of the Commission; and any emergency alteration or addition so made shall thereafter be subject to such modification and change as the Commission may direct. Minor changes in the project works or divergence from such approved exhibits may be made if such changes will not result in decrease in efficiency, in material increase in cost, or in impairment of the general scheme of development; but any of such minor changes made without the prior approval of the Commission, which in its judgment have produced or will produce any of such results, shall be subject to such alteration as the Commission may direct. Upon the completion of the project, or at such other time as the Commission may direct, the Licensee shall submit to the Commission for approval revised maps, plans, specifications, and statements insofar as necessary to show any divergence from or variations in the project area and project boundary as finally located or in the project works as actually constructed when compared with the area and boundary shown and the works described in the license or in the maps, plans, specifications, and statements approved by the Commission, together with a statement in writing setting forth the reasons which in the opinion of the Licensee necessitated or justified variations in or divergence from the approved maps, plans, specifications, and statements. Such revised maps, plans, specifications, and statements shall, if and when approved by the Commission, be made a part of the license under the provisions of Article 2 hereof.

Article 4. The construction, operation, and maintenance of the project and any work incident to additions or alterations shall be subject to the inspection and supervision of the Regional Engineer, Federal Power Commission, in the region wherein the project is located, or of such other officer or agent as the Commission may designate, who shall be the authorized representative of the Commission for such purposes. The Licensee shall cooperate fully with said representative and shall furnish him a detailed program of inspection by the

Licensee that will provide for an adequate and qualified inspection force for construction of the project. Construction of the project works or any feature thereof shall not be initiated until the program of inspection for the project works or any such feature thereof has been approved by said representative. The Licensee shall also furnish to said representative such further information as he may require concerning the construction, operation, and maintenance of the project, and of any alteration thereof, and shall notify him of the date upon which work will begin, as far in advance thereof as said representative may reasonably specify, and shall notify him promptly in writing of any suspension of work for a period of more than one week, and of its resumption and completion. The Licensee shall allow him and other officers or employees of the United States, showing proper credentials, free and unrestricted access to, through, and across the project lands and project works in the performance of their official duties. The Licensee shall comply with such rules and regulations of general or special applicability as the Commission may from time to time prescribe for the protection of life, health, or property.

Article 5. The Licensee within two years from date of issuance of the license shall acquire title in fee or the right to use in perpetuity all lands, other than lands of the United States, necessary or appropriate for the construction, maintenance and operation of the project. The Licensee, its successors and assigns shall, during the period of the license, retain the possession of all project property covered by the license as issued or as later amended, including the project area, the project works, and all franchises, easements, water rights, and rights of occupancy and use; and none of such properties shall be voluntarily sold, leased, transferred, abandoned, or otherwise disposed of without the prior written approval of the Commission, except that the Licensee may lease or otherwise dispose of interests in project lands or property without specific written approval of the Commission pursuant to the then current regulations of the Commission. The provisions of this article are not intended to prevent the abandonment or the retirement from service of structures, equipment, or other project works in connection with replacements thereof when they become obsolete, inadequate, or inefficient for further service due to wear and tear; and mortgage or trust deed or judicial sales made thereunder, or tax sales, shall not be deemed voluntary transfers within the meaning of this article.

Article 6. In the event the project is taken over by the United States upon the termination of the license, as provided in Section 14 of the Act, or is transferred to a new licensee under the provisions of Section 15 of the Act, the Licensee, its successors and assigns will be responsible for and will make good any defect of title to or of right of occupancy and use in any of such project property which is necessary or appropriate or valuable and serviceable in the maintenance and operation of the project, and will pay and discharge, or will assume responsibility for payment and discharge, of all liens or incumbrances upon the project or project property created by the Licensee or created or incurred after the issuance of the license: *Provided,* That the provisions of this article are not intended to require the Licensee, for the purpose of transferring the project to the United States or to a new Licensee, to acquire any different title to or right of occupancy and use in any of such project property than was necessary to acquire for its own purposes as Licensee.

Article 7. The actual legitimate original cost of the original project, and of any addition thereto or betterment thereof, shall be determined by the Commission in accordance with the Act and the Commission's rules and regulations thereunder.

Article 8. After the first 20 years of operation of the project under the license, six percent per annum shall be the specified rate of return on the net investment in the project for determining surplus earnings of the project for the establishment and maintenance of amortization reserves, pursuant to Section 10(d) of the Act; one-half of the project surplus earnings, if any, accumulated after the first 20 years of operation under the license, in excess of six percent per annum on the net investment, shall be set aside in a project amortization reserve account as of the end of each fiscal year: *Provided*, that, if and to the extent that there is a deficiency of project earnings below six percent per annum for any fiscal year or years after the first 20 years of operation under the license, the amount of such deficiency shall be deducted from the amount of any surplus earnings accumulated thereafter until absorbed, and one-half of the remaining surplus earnings, if any thus cumulatively computed, shall be set aside in the project amortization reserve account; and the amounts thus established in the project amortization reserve account shall be maintained therein until further order of the Commission.

Article 9. For the purpose of determining the stage and flow of the stream or streams from which water is diverted for the operation of the project works, the amount of water held in and withdrawn from storage, and the effective head on the turbines, the Licensee shall install and thereafter maintain such gages and stream-gaging stations as the Commission may deem necessary and best adapted to the requirements; and shall provide for the required readings of such gages and for the adequate rating of such stations. The Licensee shall also install and maintain standard meters adequate for the determination of the amount of electric energy generated by said project works. The number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, shall at all times be satisfactory to the Commission and may be altered from time to time if necessary to secure adequate determinations, but such alteration shall not be made except with the approval of the Commission or upon the specific direction of the Commission. The installation of gages, the ratings of said stream or streams, and the determination of the flow thereof, shall be under the supervision of, or in cooperation with, the District Engineer of the United States Geological Survey having charge of stream-gaging operations in the region of said project, and the Licensee shall advance to the United States Geological Survey the amount of funds estimated to be necessary for such supervision or cooperation for such periods as may be mutually agreed upon. The Licensee shall keep accurate and sufficient record of the foregoing determinations to the satisfaction of the Commission, and shall make return of such records annually at such time and in such form as the Commission may prescribe.

Article 10. The Licensee shall install additional capacity or make other changes in the project as directed by the Commission, to the extent that it is economically sound and in the public interest to do so, after notice and opportunity for hearing.

Article 11. The Licensee shall, after notice and opportunity for hearing, coordinate the operation of the project, electrically and hydraulically, with such other projects or power systems and in such manner as the Commission may direct in the interest of power and other beneficial public uses of water resources, and on such conditions concerning the equitable sharing of benefits by the Licensee as the Commission may order.

Article 12. Whenever the Licensee is directly benefited by the construction work of another licensee, a permittee, or of the United States of a storage reservoir or other headwater improvement, the Licensee shall reimburse the owner of the headwater improvement for such part of the annual charges for interest, maintenance, and depreciation thereon as the Commission shall determine to be equitable, and shall pay to the United States the cost of making such determination as fixed by the Commission. For benefits provided by a storage reservoir or other headwater improvement of the United States the Licensee shall pay to the Commission the amounts for which it is billed from time to time for such headwater benefits and for the costs of making the determinations pursuant to the then current Commission Regulations under the Federal Power Act within 60 days from the date of rendition of a bill therefore and, upon failure to do so, shall thereafter be subject to the payment of the penalties specified in the then current Regulations. The Licensee shall have the right to pay such amounts under protest within the 60-day period and to reconsideration of the determination of the amounts billed or a hearing as provided by the then current Regulations under the Act.

Article 13. The United States specifically retains and safeguards the right to use water in such amount, to be determined by the Secretary of the Army, as may be necessary for the purposes of navigation on the navigable waterway affected; and the operations of the Licensee, so far as they affect the use, storage and discharge from storage of waters affected by the license, shall at all times be controlled by such reasonable rules and regulations as the Secretary of the Army may prescribe in the interest of navigation, and as the Commission may prescribe for the protection of life, health, and property, and in the interest of the fullest practicable conservation and utilization of such waters for power purposes and for other beneficial public uses, including recreational purposes; and the Licensee shall release water from the project reservoir at such rate in cubic feet per second, or such volume in acre-feet per specified period of time, as the Secretary of the Army may prescribe in the interest of navigation, or as the Commission may prescribe for the other purposes hereinbefore mentioned.

Article 14. On the application of any person, association, corporation, Federal agency, State or municipality, the Licensee shall, after notice and opportunity for hearing, permit such reasonable use of its reservoirs or other project properties, including works, lands and water rights, or parts thereof, as may be ordered by the Commission in the interest of comprehensive development of the waterway or waterways involved and the conservation and utilization of water resources of the region, for water supply for the purpose of steam-electric, irrigation, industrial, municipal or similar uses. The Licensee shall receive reasonable compensation, at least full reimbursement for any damages or expenses which the joint use causes him to incur, for use of its reservoirs or other project properties or parts thereof for such purposes, any such compensation to be fixed by the Commission either by approval of an agreement between the Licensee and the party or parties benefiting or after notice and opportunity for hearing. Applications shall contain information in sufficient detail to afford a full understanding of the proposed use, including satisfactory evidence that the applicant possesses necessary water rights pursuant to applicable State law, or a showing of cause why such evidence cannot be concurrently submitted, and a statement as to the relationship of the proposed use to any State or municipal plans or orders which may have been adopted with respect to the use of such waters.

Article 15. In the construction or maintenance of the project works, the Licensee shall place and maintain suitable structures and devices to reduce to a reasonable degree the liability of contact between its transmission lines and telegraph, telephone and other signal wires or power transmission lines constructed prior to its transmission lines and not owned by the Licensee, and shall also place and maintain suitable structures and devices to reduce to a reasonable degree the liability of any structures or wires falling or obstructing traffic or endangering life. None of the provisions of this article are intended to relieve the Licensee from any responsibility or requirement which may be imposed by other lawful authority for avoiding or eliminating inductive interference.

Article 16. The Licensee shall, for the conservation and development of fish and wildlife resources, construct, maintain, and operate, or arrange for the construction, maintenance and operation of such facilities and comply with such reasonable modifications of the project structures and operation as may be ordered by the Commission upon its own motion or upon the recommendation of the Secretary of the Interior or the fish and wildlife agency or agencies of any State in which the project or a part thereof is located, after notice and opportunity for hearing and upon findings based on substantial evidence that such facilities and modifications are necessary and desirable, reasonably consistent with the primary purpose of the project, and consistent with the provisions of the Act.

Article 17. Whenever the United States shall desire, in connection with the project, to construct fish and wildlife facilities or to improve the existing fish and wildilfe facilities at its own expense, the Licensee shall permit the United States or its designated agency to use, free of cost, such of Licensee's lands and interest in lands, reservoirs, waterways and project works as may be reasonably required to complete such facilities or such improvements thereof. In addition, after notice and opportunity for hearing, the Licensee shall modify the project operation as may be prescribed by the Commission, reasonably consistent with the primary purpose of the project, in order to permit the maintenance and operation of the fish and wildlife facilities constructed or improved by the United States under the provisions of this article. This article shall not be interpreted to place any obligation on the United States to construct or improve fish and wildlife facilities or to relieve the Licensee of any obligation under this license.

Article 18. The Licensee shall construct, maintain and operate or shall arrange for the construction, maintenance and operation of such recreational facilities including modifications thereto, such as access roads, wharves, launching ramps, beaches, picnic and camping areas, sanitary facilities and utilities, and shall comply with such reasonable modifications of the project structures and operations as may be prescribed hereafter by the Commission during the term of this license upon its own motion or upon the recommendation of the Secretary of the Interior or other interested Federal and State agencies, after notice and opportunity for hearing and upon findings based upon substantial evidence that such facilities and modifications are necessary and desirable, and reasonably consistent with the primary purpose of the project.

Article 19. So far as is consistent with proper operation of the project, the Licensee shall allow the public free access, to a reasonable extent, to project waters and adjacent project lands owned by the Licensee for the purpose of full public utilization of such lands and waters for navigation and recreational purposes, including fishing and hunting, and shall allow to a reasonable extent for such purposes the construction of access roads, wharves, landings, and other facilities on its lands the occupancy of which may in appropriate circumstances be subject to payment of rent to the Licensee in a reasonable amount: *Provided, that* the Licensee may reserve from public access, such portions of the project waters, adjacent lands, and project facilities as may be necessary for the protection of life, health, and property and *Provided, further,* that the Licensee's consent to the construction of access roads, wharves, landings, and other facilities shall not, without its express agreement, place upon the Licensee any obligation to construct or maintain such facilities. These facilities are in addition to the facilities that the Licensee may construct and maintain as required by the license.

Article 20. The Licensee shall be responsible for and shall take reasonable measures to prevent soil erosion on lands adjacent to the stream and to prevent stream siltation or pollution resulting from construction, operation or maintenance of the project. The Commission upon request, or upon its own motion, may order the Licensee to construct and maintain such preventive works to accomplish these purposes and to revegetate exposed soil surface as the Commission may find to be necessary after notice and opportunity for hearing.

Article 21. There is reserved to the appropriate department or agency of the United States, or of the State or county involved, the right to take over maintain, and supervise the use of any project road as a public road.

Article 22. The Licensee shall clear and keep clear to an adequate width lands along open conduits, shall clear lands within the bottom and margin of reservoirs (except as may be otherwise specified in the license), and shall dispose of all temporary structures, unused timber, brush, refuse, or inflammable material resulting from the clearing of lands or from the maintenance or alteration of the project works. In addition, all trees along the margins of reservoirs which may die during operations of the project shall be removed. The clearing of the lands and the disposal of the material shall be done with due diligence and to the satisfaction of the authorized representative of the Commission.

Article 23. If the Licensee shall cause or suffer essential project property to to be removed or destroyed or to become unfit for use, without adequate replacement, or shall abandon or discontinue good faith operation of the project for a period of three years, or refuse or neglect to comply with the terms of the license and the lawful orders of the Commission mailed to the record address of the Licensee or its agent, the Commission will deem it to be the intent of the Licensee to surrender the license, and not less than 90 days after public notice may in its discretion terminate the license.

Article 24. Upon abandonment of the project the Licensee shall remove all structures, equipment and power lines from the stream and restore said stream to a condition satisfactory to the Commission's authorized representative and shall fulfill such other obligations under the license as the Commission may prescribe.

Article 25. The right of the Licensee and of its transferees and successors to use or occupy waters, over which the United States has jurisdiction, under the license, for the purpose of maintaining the project works or otherwise, shall absolutely cease at the end of the license period, unless Licensee has obtained a new license pursuant to the then existing laws and regulations or an annual license under the terms and conditions of this license.

Article 26. The terms and conditions expressly set forth in the license shall not be construed as impairing any terms and conditions of the Federal Power Act which are not expressly set forth herein.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and Carl E. Bagge.

NORTHERN NATURAL GAS COMPANY, DOCKET NO. CP66-405

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued September 26, 1966)

On June 7, 1966, Northern Natural Gas Company (Applicant), filed in Docket No. CP66-405 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and the transportation of natural gas in interstate commerce, all as more fully set forth in the application.

Applicant proposes to construct and operate 2,800 feet of 4-inch pipeline and to transport approximately 5,500 Mcf per day of additional natural gas for use as fuel and shrinkage in its hydrocarbon extraction plant located near Hobbs, New Mexico. Present hydrocarbon extraction facilities consist of an ambient temperature absorption process which extracts certain volumes of propane, butane and natural gasoline. The present facilities have a capacity to process 220,000 Mcf of natural gas per day.

Applicant proposes to modify the Hobbs Extraction Plant and to install minor piping in the Hobbs Yard, which will be installed under the provisions of Paragraph 2.55 of the Commission's Rules of Practice and Procedure.

Applicant proposes to modify the present extraction facilities by installing a refrigerated absorption process. The proposed modifications to the extraction facilities will not increase the capacity of the plant to process volumes in excess of 220,000 Mcf of gas per day, but will increase the amount of hydrocarbons removed, thereby increasing the volumes of fuel and shrinkage by approximately 5,500 Mcf of gas per day.

The total estimated cost of construction for Applicant's proposed project is $3,031,310, which cost will be financed out of cash on hand.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on September 22, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits submitted in support of the authorization, and upon consideration of the record,

The Commission finds:

(1) Applicant, Northern Natural Gas Company, a Delaware corporation having its principal place of business in Omaha, Nebraska, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of April 6, 1943, in Docket No. G-280 (3 FPC 967).

(2) The proposed construction and operation of facilities and transportation of natural gas by Applicant, as hereinbefore described, and as more fully

described in the application and exhibits in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed construction and operation of facilities and transportation of natural gas are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to the Applicant in this proceeding, authorizing the construction and operation of facilities and transportation of natural gas as hereinbefore described and as more fully described in the application and exhibits in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be completed as provided by paragraph (b) of Section 157.20 of the aforesaid Regulations by March 1, 1967.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and Carl E. Bagge

OHIO VALLEY GAS CORPORATION AND MICHIGAN WISCONSIN PIPE LINE COMPANY, DOCKET NO. CP66-328

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued September 26, 1966)

On April 18, 1966, Ohio Valley Gas Corporation (Applicant) filed in Docket No. CP66-328 an application, as supplemented on August 25, 1966, pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Michigan Wisconsin Pipe Line Company (Respondent) to establish physical connection of its transportation facilities with the facilities proposed to be constructed by Applicant and to sell and deliver to Applicant volumes of natural gas for resale and distribution in the communities of Ferdinand and Saint Meinrad, Indiana, all as more fully set forth in the application.

The town of Ferdinand is located in Dubois County, Indiana, approximately 3,200 feet from Respondent's main transmission line and the unincorporated village of Saint Meinrad is located approximately 6 miles southeast of Ferdinand.

Applicant proposes that Respondent construct, pursuant to its "10-cent" formula, approximately 4.6 miles of 4-inch lateral pipeline extending from its transmission line to the border of Ferdinand and further toward the unincorporated village of Saint Meinrad. Applicant proposes to extend said lateral approximately 1.51 miles to Saint Meinrad and to construct separate distribution systems in both of the aforementioned communities.

Applicant's estimated third year annual and peak day requirements are 143,656 Mcf and 1,091 Mcf of natural gas, respectively.

The total estimated cost of Applicant's proposed project is $196,792, which cost will be financed from cash on hand and from liquid assets.

On May 20, 1966, Respondent filed an answer to the application herein, stating that it has no objection to the issuance by the Commission of an order as requested by Applicant.

On May 23, 1966, Community Natural Gas Company, Inc., Mt. Carmel, Illinois, filed a petition to intervene in the instant proceeding, but withdrew its intervention on July 25, 1966. No other petition to intervene, notice of intervention or protest has been filed herein.

The Commission finds:

(1) Respondent, Michigan Wisconsin Pipe Line Company, a Delaware corporation with its principal place of business in Detroit, Michigan, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of November 30, 1946, in Docket No. G-669 (5 FPC 953).

(2) Applicant, Ohio Valley Gas Corporation, a corporation organized and existing under the laws of the State of Indiana, is authorized to construct and operate facilities and distribute and sell natural gas as proposed.

(3) It is necessary and desirable in the public interest that Respondent be directed to establish physical connection of its natural gas transmission facilities with the proposed facilities of Applicant and to sell and deliver natural gas to Applicant, as set forth in the application and as hereinafter ordered and conditioned.

(4) This order should be conditioned upon Applicant being prepared to receive natural gas from Respondent, as proposed, within one year from the date on which this order issues.

(5) The requirement that Respondent serve Applicant, as proposed, will not place any undue burden upon Respondent nor impair its ability to render adequate service to its existing customers.

The Commission orders:

(A) Respondent is directed to establish physical connection of its natural gas transmission system with the facilities to be constructed by Applicant and to sell and deliver up to 1,091 Mcf of natural gas per day to Applicant, all as hereinbefore described and as more fully described in the application.

(B) Applicant shall be prepared to receive natural gas from Respondent within one year from the date of this order.

(C) Respondent shall notify the Commission of the commencement of service within 10 days thereof.

(D) Respondent shall execute and file with the Commission a service agreement with Applicant in accordance with the Commission's Regulations.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and Carl E. Bagge.

THE TOWN OF OSGOOD, INDIANA AND TEXAS EASTERN TRANSMISSION CORPORATION, DOCKET NO. CP67-15

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued September 26, 1966)

On July 21, 1966, the Town of Osgood, Indiana (Applicant), filed in Docket No. CP67-15 an application pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Texas Eastern Transmission Corporation (Respondent) to establish physical connection of its transportation facilities with the facilities proposed to be constructed by Applicant and to sell and deliver to Applicant volumes of natural gas for resale and distribution in the Town of Osgood and environs, Ripley County, Indiana, all as more fully set forth in the application.

Applicant proposes to construct and operate approximately 6.8 miles of 4-inch steel lateral pipeline, together with the requisite pressure and odorization facilities, extending in a northwesterly direction from the town to Respondent's transmission system. Applicant also proposes to construct and operate a local distribution system for service to the residents of the Town of Osgood and environs.

Applicant's estimated third year annual and peak day requirements are 98,680 Mcf and 1,103 Mcf of natural gas, respectively.

The total estimated cost of Applicant's proposed facilities is $306,000, which cost will be financed through the sale of revenue bonds to be amortized over a thirty year period.

On August 22, 1966, Respondent filed an answer to the application herein, stating that it has no objection to the issuance by the Commission of an order as requested by Applicant.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

The Commission finds:

(1) Respondent, Texas Eastern Transmission Corporation, a Delaware corporation with its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order issued on March 30, 1949, in Docket No. G-1089.

(2) Applicant, the Town of Osgood, Indiana, is a municipal corporation incorporated under the laws of the State of Indiana and is legally empowered to construct and operate natural gas facilities and to sell and distribute natural gas in said town.

(3) It is necessary and desirable in the public interest that Respondent be directed to establish physical connection of its natural gas transportation system with the proposed facilities of Applicant and to sell and deliver up to 1,103 Mcf of natural gas per day to Applicant, as set forth in the application and as hereinafter ordered and conditioned.

(4) This order should be conditioned upon Applicant being prepared to receive natural gas from Respondent, as proposed within one year from the date on which this order issues.

(5) The requirement that Respondent serve Applicant, as proposed, will not place any undue burden upon Respondent nor impair its ability to render adequate service to its existing customers.

The Commission orders:

(A) Respondent is directed to establish physical connection of its natural gas transmission system with the facilities to be constructed by Applicant and to sell and deliver up to 1,103 Mcf of natural gas per day to Applicant, all as hereinbefore described and as more fully described in the application.

(B) Applicant shall be prepared to receive natural gas from Respondent within one year from the date of this order.

(C) Respondent shall notify the Commission of the commencement of service within ten days thereof.

(D) Respondent shall execute and file with the Commission a service agreement with Applicant in accordance with the Commission's Regulations.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

PENNSYLVANIA ELECTRIC COMPANY AND THE CLEVELAND ELECTRIC ILLUMINATING COMPANY, PROJECT NO. 2280

ORDER APPROVING REVISED EXHIBIT L PROJECT DRAWINGS AND MODIFYING LICENSE

(Issued September 26, 1966)

On March 11, 1966, Pennsylvania Electric Company and The Cleveland Electric Illuminating Company, licensees for proposed Kinzua Project No. 2280, filed for Commission approval revised Exhibit L drawings for the project, which is a pumped storage development proposed to be located at the Allegheny Government Dam on the Allegheny River in Warren County, Pennsylvania, and which will affect lands of the United States within the Allegheny National Forest.

The revised Exhibit L drawings were filed pursuant to Article 42 of the license for the project which requires their approval by the Commission prior to commencement of construction of the project works.

By our order of May 27, 1966, 35 FPC 834, we approved two of the Exhibit L drawings referred to above in order that early commencement of construction of the Low Head Hydraulic Structures could proceed. We are, therefore, herein concerned only with respect to the remaining unapproved Exhibit L drawings.

The provisions of Article 40 of the license require the licensees to retain a board of consultants to review for safety and adequacy the specifications, design, and construction of the project works, and to submit a report to the Commission concerning each portion of the project prior to submittal of the revised Exhibit L drawings therefor. Such a report was timely submitted which approves of the basic designs of the major project structures which include the upper reservoir, upper intake and high head conduit, powerstation, low head conduit, and lower intake. The Exhibit L drawings show that the shape of the upper reservoir has been changed from rectangular to circular resulting in the elimination of a long section of dike parallel to the crest of the hillside adjacent to the Allegheny Government Dam, which improves the stability of the hillside and is more economical. The upper reservoir will be lined with asphaltic concrete in lieu of impervious soil to prevent leakage into the sandstone caprock. An extensive system of drainage behind the reservoir lining will be used to prevent uplift as the reservoir is unwatered. According to the report, the effectiveness of the lining will be constantly checked by measuring the discharge from the drains, but the use of piezometers installed in the sandstone foundations around the periphery of the dikes and by the use of strain gauges in the foundation to indicate the opening of cracks. Careful monitoring of the movements in the hillside between the upper reservoir and the Allegheny Government Dam will be performed to assure the safety of the latter dam against possible slides. The board of consultants has approved the use of an emergency spillway for the upper reservoir, as provided by license Article 38. The revised Exhibit L drawings show the upper reservoir intake as a morning-glory type of structure which the board considers adequate. However, the board's report states that model studies will be made which might result in some changes to the intake and approaches thereto. As a result of economic studies, the high head conduit diameters have been increased and the drawings show one section of conduit as having a slope of 55° with the horizontal, which will be constructed as a vertical shaft. Drains have been added behind the tunnel lining to prevent the transfer of upper reservoir water pressure to low-lying rock strata. The board's report generally approved the design and relocation of the powerhouse several hundred feet downstream from its originally planned location in order that the powerhouse excavation would not endanger the Allegheny Government Dam. Finally, the board's report approved the design of the low head conduits which have been increased in size to reduce the effects of water hammer resulting from the increased length of conduits made necessary by the relocation of the powerhouse. The proposed changes shown on the exhibits drawings are improvements in the design of the project works.

Article 41 of the license requires the licensees to submit for Commission approval a stability analysis of a typical (maximum height) dike section for the upper reservoir using actual strengths of materials to be used. Such an analysis was submitted and is considered satisfactory.

The Secretary of the Army and the Chief of Engineers, have approved the plans of the project structures affecting navigation insofar as the interest of navigation is concerned, pursuant to Section 4(e) of the Federal Power Act. In accordance with license Article 43, the plans and specifications of the project features which could affect the structures and operations of the Allegheny Government Dam have been reviewed by the Corps and have been found satisfactory.

Upon the suggestion of the Pennsylvania Fish Commission and with the acquiescence of the licensees, we are including in the license Article 60 requiring the licensees to cooperate with the Pennsylvania Fish Commission during development of details of project design and during construction and operation in an effort to reach an agreement thereon in the interest of protecting the fishery resources of the project area.

The following described revised Exhibit L drawings conform to the Commission's rules and regulations and should be approved as part of the license for the project and superseded license drawings designated as Exhibit L, sheets 1, 2, 3, 4, 5 and

7 (FPC Nos. 2280–24, 25, 26, 27, 28 and 30, respectively) should be eliminated from the license for the project:

Revised Exhibit L	*F.P.C No.*	*Title*
		Kinzua Project
Sheet 1	2280–32	General Layout.
Sheet 2	2280–33	High Head Conduit.
Sheet 3	2280–34	Pumping and Generating Station Vicinity.
Sheet 4A	2280–35	Pumping and Generating Station Plan—El-1188.0.
Sheet 4B	2280–36	Pumping and Generating Station Plan—El-1232.0.
Sheet 5A	2280–37	Pumping and Generating Station Sections—Sheet 1.
Sheet 5B	2280–38	Pumping and Generating Station Sections—Sheet 2.
Sheet 6	2280–39	Low Head Conduits.
Sheet 7	2280–40	Upper Hydraulic Structures.

The Commission orders:

(A) The revised Exhibit L drawings described in the above finding are hereby approved as part of the license for Project No. 2280, and the superseded license Exhibit L drawings described in the same finding are hereby eliminated from the license for the project.

(B) The license for Project No. 2280 is hereby modified to include the following article:

Article 60. Licensees shall during development of details of project design and during construction and operation cooperate with the Pennsylvania Fish Commission in the interest of protecting the fishery resources. In the event the licensees and the Fish Commission fail to reach agreement on facility design, including that of the water intake structure screens or racks, the Commission reserves the right to make such determination after notice and opportunity for hearing.

(C) This order shall become final 30 days from the date of its issuance unless application for rehearing shall be filed as provided in Section 313(a) of the Act, and failure to file such an application shall constitute acceptance of this order. In acknowledgment of the acceptance of this order, it shall be signed for the licensees and returned to the Commission within 60 days from the date of issuance of this order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and Carl E. Bagge.

TENNESSEE GAS PIPELINE COMPANY, A DIVISION OF TENNECO INC., DOCKET NO. CP67-13

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued September 26, 1966)

On July 20, 1966, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant) filed in Docket No. CP67-13 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience

and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application.

Applicant proposes to construct and operate 2.6 miles of 16-inch pipeline extending from West Delta Block 69–K to Grand Isle Block 43, offshore area, south Louisiana, in order to connect offshore gas reserves to its existing offshore facilities. The gas reserves proposed to be connected are owned by The Atlantic Refining Company, Cities Service Oil Company, Continental Oil Company, and Tidewater Oil Company (collectively referred to as CATCO) and were dedicated to Applicant by contract dated January 31, 1956.

The subject application has been filed pursuant to a letter amendment to the aforementioned contract dated August 31, 1964, providing that Applicant build one mile of pipeline for each ten billion cubic feet of reserves discovered. Sufficient reserves have now been developed to justify the construction of the proposed 2.6 miles of 16-inch pipeline.

The total estimated cost of Applicant's proposed facilities is $715,876, which cost will be financed from general funds or revolving credit.

After due notice, no petition to intervene, notice of intervention or protest to the application has been filed.

At a hearing held on September 22, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., a Delaware corporation with its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of July 15, 1947, in Docket No. G–910 (6 FPC 777).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., authorizing construction and operation of the facilities hereinbefore described, as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be constructed and placed in actual operation, as provided by paragraph (b) of Section 157.20 of the Regulations under the Natural Gas Act, within one year from the date on which this order issues.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

ALABAMA POWER COMPANY, DOCKET NO. E-6893

HEADWATER BENEFITS DETERMINATION

(Issued September 28, 1966)*

This order, issued under Section 10(f) of the Federal Power Act (16 U.S.C. 803(f)), determines payments of the Alabama Power Company to the United States for benefits provided in the Coosa River basin by the Federal Allatoona headwater improvement to the Company's downstream Weiss and Lay hydroelectric developments, Project No. 2146, and Mitchell and Jordan developments, Project Nos. 82 and 618, respectively, during the period of January 1, 1961, through December 31, 1963.

On October 13, 1965, the Company paid to the Commission an interim or partial billing of $235,261 for headwater benefits from the Allatoona project for the years 1961–1963. On January 18, 1966, representatives of the Company, the Department of the Interior, the Corps of Engineers, and the Commission staff met in Washington, D.C., to discuss final payments for the period. After the conference, written submissions were made by the Company and Interior. The payments fixed below take into consideration the suggestions made in these submissions.

The Commission finds:

(1) It is appropriate and in the public interest in administering Part I of the Federal Power Act, particularly Section 10(f) thereof, that the following payments be made by the Alabama Power Company to the United States for headwater benefits provided in the Coosa River basin by the Federal Allatoona project to the Company's downstream Weiss and Lay hydroelectric developments, Project No. 2146, and Mitchell and Jordan developments, Project Nos. 82 and 618, respectively:

Year:	*Amount*
1961	$70,233
1962	98,768
1963	127,002
Total	$296,003
Interim payment	235,261
Amount due	60,742

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*Order issued November 23, 1966 granting rehearing, etc., 36 FPC 883.

(2) The cost of the headwater benefits determination for the period through the issuance date of this order is $18,724.

The Commission orders:

The Alabama Power Company within thirty days of this determination shall pay to the Commission $79,466 ($60,742 plus $18,724).

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

DUKE POWER COMPANY, DOCKET NO. E-7266

ORDER DENYING REHEARING

(Issued September 28, 1966)

Duke Power Company (Duke) on September 6, 1966, filed an application for Rehearing of our Opinion No. 503 and Order Determining Jurisdiction Over Acquisition of Facilities, issued August 9, 1966, 36 FPC 399, where we determined that Section 203 of the Federal Power Act requires that Duke, a "public utility" within the meaning of the Federal Power Act obtain approval for the acquisition of electric facilities valued in excess of $50,000 owned by Clemson University. The points made by Respondent were covered in the briefs submitted earlier and were disposed of in our opinion. No further discussion is necessary.

The Commission further finds:

The assignments of error and grounds for rehearing set forth in the application for rehearing filed by Duke in this proceeding present no new legal principles which would warrant any change or modification of the Commission's Opinion No. 503 and order.

The Commission orders:

The application for rehearing filed by Respondent is denied.

Commissioner Carver *not participating.*

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

SOUTHERN CALIFORNIA EDISON COMPANY, PROJECT NO. 1582

ORDER ACCEPTING SURRENDER OF LICENSE (TRANSMISSION LINE)

(Issued September 28, 1966)

On August 22, 1966, Southern California Edison Company, licensee for transmission line Project No. 1582, filed application for surrender of the license for the project located in Mono County, California, and affecting lands of the United States within the Mono National Forest.

The application was filed pursuant to the Commission's October 1, 1963 order, 30 FPC 889, in which the Commission found, among other things, that transmission line Project No. 1582 is not part of a "project" as defined in Section 3(11) of the Federal Power Act, and provided for the filing of an application for surrender of the license for the transmission line, subject to first obtaining authority from the appropriate Government agency for the continued occupancy by the line of the lands of the United States involved.

The licensee filed with its application for surrender a copy of a Special Use Permit issued by the U.S. Forest Service on July 8, 1966 for the continued occupancy by the line of lands of the United States within the Mono National Forest. Filed also, was the licensee's copy of its license.

Annual Charges have been paid under the license through December 31, 1965. Public notice of the filing of the application for surrender was waived in the license.

The Commission finds:

Acceptance of surrender of the license for the project is appropriate as hereinafter provided.

The Commission orders:

Surrender of the license for transmission line Project No. 1582 is hereby accepted, effective as of July 8, 1966, subject to the payment of annual charges owing under the license through said date in the amount of $6.43.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

WISCONSIN MICHIGAN POWER COMPANY, PROJECT NO. 2357

ORDER APPROVING REVISED PROJECT EXHIBIT L DRAWINGS

(Issued September 28, 1966)

On January 14, 1965, Wisconsin Michigan Power Company, licensee for the White Rapids Project No. 2357 located on the Menominee River in Wisconsin and Michigan, near Amberg, Wisconsin, filed for Commission approval revised Exhibit L drawings showing certain changes in the powerhouse intake gates.

Replacement of head gates at the water passages of the intake structure became necessary because they had deteriorated. The revised drawings show that the gates have been replaced by portable steel lift gates which will operate in vertical guide slots in the face of each pier in the water passages. A permanent overhead hoist rail with crane and supporting steel framework have been constructed on the powerhouse deck to operate the gates.

The Chief of Engineers and the Secretary of the Army have approved the revised Exhibit L drawings pursuant to Section 4(e) of the Federal Power Act.

The Commission finds:

The following described revised Exhibit L drawings conform to the Commission's rules and regulations and should be approved as part of the license for the project, and the license Exhibit L drawings mentioned herein as being superseded should be eliminated from the license for the project:

Exhibit L	*Showing*	*FPC No.*	*FPC No. Superseded*
Sheet 2	Cross Section of Plant	2357–12	2357–4
Sheet 4	Plant Floor and Sectional Plans	2357–13	2357–6
Sheet 5	Plant Elevations	2357–14	2357–7

The Commission orders:

The revised Exhibit L drawings described in the above finding are hereby approved as part of the license for Project No. 2357, and the license Exhibit L drawings referred to in the same finding as being superseded are hereby eliminated from the license for the project.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Carl E. Bagge and John A. Carver, Jr.

ALABAMA POWER COMPANY, PROJECT NO. 2146

ORDER FURTHER EXTENDING TIME FOR COMPLETION OF CAUSEWAY

(Issued September 30, 1966)

By letter of September 8, 1966, the Alabama Power Company advised that Mr. J. W. Goodgame had requested a further extension to complete Causeway No. 4, located in the reservoir of the Company's Logan Martin hydroelectric development, Project No. 2146, on the Coosa River in Alabama. The Company was authorized to grant permission to construct this causeway by the Commission's order of May 26, 1965, 33 FPC 1105. That order provided that the construction be completed not later than March 31, 1966. By order of May 26, 1966 [unreported], the Commission extended the completion date to September 30, 1966.

The Company states that Mr. Goodgame has made periodic progress on the causeway construction, but that construction has been hampered during the summer by recreation activity on and around Goodgame Island and by the increase in the reservoir level during the recreation season. The Company recommends that the completion date be further extended to March 31, 1967. Unless the causeway is completed by this date, the Company is authorized and directed to secure its removal from the reservoir as a project work not completed according to specifications.

The Commission finds:

It is consistent with the public interest in carrying out the provisions of the Federal Power Act that the Alabama Power Company be authorized to grant an extension for the completion of Causeway No. 4 in the Logan Martin reservoir as hereinafter provided.

The Commission orders:

The Alabama Power Company is hereby authorized to grant an extension for completion of Causeway No. 4 in the Logan Martin reservoir until March 31, 1967.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

IDAHO POWER COMPANY, DOCKET NO. E-7307

ORDER AUTHORIZING THE ISSUANCE OF FIRST MORTGAGE BONDS

(Issued September 30, 1966)

Idaho Power Company (Applicant), incorporated under the laws of the State of Maine and qualified to do business in the States of Idaho, Nevada and Oregon, with its principal business office at Boise, Idaho, filed an application with the Federal Power Commission on August 19, 1966, as amended at various times thereafter, for authorization pursuant to Section 204 of the Federal Power Act, to issue and sell at competitive bidding $30,000,000, principal amount of First Mortgage Bonds, due 1996.

Applicant proposes to issue the new Bonds as a series of an issue of First Mortgage Bonds under a Mortgage and Deed of Trust dated as of October 1, 1937, and as supplemented and amended by 16 supplemental indentures and as to be further amended by a 17th supplemental indenture to be dated as of October 1, 1966 between the Applicant and Bankers Trust Company of New York and J. C. Kennedy, as Trustees. The new Bonds are to be dated as of October 1, 1966. The interest rate of the Bonds will be determined by competitive bidding.

On or about October 3, 1966, the Applicant proposes to invite sealed written bids for the purchase of the Bonds by newspaper publication of a public invitation for proposals, setting forth terms and conditions relating thereto. All bids, whether from a single bidder or group of bidders, must be in writing on the Form of Bid furnished by Applicant and must be for the purchase of the entire amount of the Bonds. Each bid must specify, among other things: (1) the interest rate to be borne by the Bonds, which rate shall be a multiple of ⅛th of 1% and (2) the price to be paid to the Applicant, which price shall not be less than 99% of principal amount. Each bid shall provide that accrued interest from October 1, 1966 to date of payment therefor and delivery thereof will be paid to the Applicant by the purchaser or purchasers.

Unless postponed, all bids for the purchase of the proposed issuance of Bonds must be delivered to the Applicant's representative at the Bankers Trust Company, 11th Floor, 100 Broadway, New York, New York, before 11:30 a.m. New York time on October 11, 1966, and be accompanied by the deposit of $900,000. Unless the Applicant shall reject all bids or exclude a bid or bids for reasons set forth in the invitation, it will accept the bid which provides for the lowest cost of money.

According to the Applicant, the Bonds are to be issued for the purpose of obtaining funds for the payment of short-term notes and the remaining balance of the net proceeds of the sale of said securities is to be used for construction purposes, principally the Hells Canyon unit of Project No. 1971, now under construction and scheduled for completion early in 1968. Applicant now has short-term notes outstanding in the amount of $10,900,000 and Applicant estimates that it will acquire and make additional short-term bank loans aggregating approximately $9,000,000 prior to the issuance of the First Mortgage Bonds. Between the period July 1, 1966 to December 31, 1967, Applicant expects to spend $34.5 million on the Hells Canyon unit of Project No. 1971, approximately $7 million on transmission lines and approximately $11 million on distribution lines and substations.

Written notice of the application has been given to the Idaho Public Utilities Commission, Nevada Public Service Commission, Oregon Public Utility Commissioner and the Governor of each of those states. Notice has also been given by publication in the Federal Register on September 8, 1966 (31 F.R. 11774), stating that any person desiring to be heard or to make any protest with reference to the application, should file petitions or protests on or before September 23, 1966, with the Federal Power Commission, Washington, D.C. 20426. No protest, petition or request to be heard in opposition to the granting of the application has been received.

The Commission finds:

(1) Applicant, a corporation, is a public utility within the meaning of Section 204 of the Federal Power Act, subject to the jurisdiction of the Commis-

sion as heretofore described and set forth in the Commission's order issued November 7, 1957, *Idaho Power Company*, Docket No. E-6781 (18 FPC 603).

(2) The proposed issuance and sale of Bonds, as described above, will constitute an issuance of securities within the purview of Section 204 of the Federal Power Act.

(3) Applicant is not organized and operating in a State under the laws of which the security issue here involved is regulated by a State commission within the meaning of Section 204(f) of the Act, and the proposed issuance of securities is, therefore, not exempt by virtue of that Section from the requirements of Section 204 of the Act.

(4) The proposed issuance and sale of Bonds, as hereinafter authorized, will be for a lawful object, within the corporate purpose of the Applicant and compatible with the public interest, which is appropriate for and consistent with the proper performance by Applicant of service as a public utility and which will not impair its ability to perform that service, and is reasonably appropriate for such purposes.

(5) The period of public notice given in this matter is reasonable.

The Commission orders:

(A) The proposed issuance and sale of Bonds, upon the terms and conditions and for the purpose specified in the application, as described above are authorized, subject to the provisions of this order.

(B) The proposed issuance and sale of Bonds at competitive bidding shall not be consummated until:

(i) Applicant shall have amended its application pursuant to the requirements of Section 34.2(g) of the Commission's Regulations under the Federal Power Act relating to compliance with competitive bidding requirements, and Section 34.2(h)(1) of those Regulations relating to affiliation, and shall have either filed such amendments or shall have mailed them and advised the Commission by telephone and telegraph, as contemplated in Section 34.9 of the Regulations.

(ii) The Commission, by further order, shall have approved the price to be received by Applicant for the proposed issuance of Bonds and the interest rate thereof.

(C) This authorization shall expire unless the transaction hereby authorized is consummated within 90 days from the date of issuance of this order.

(D) The foregoing authorization is without prejudice to the authority of this Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates or determinations of cost, or any other matter whatsoever now pending or which may come before this Commission.

(E) Nothing in this order shall be construed to imply any guarantee or obligation on the part of the United States with respect to any securities to which this order relates.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

PACIFIC POWER & LIGHT COMPANY, DOCKET NO. E-7300

ORDER AUTHORIZING TRANSMISSION OF ELECTRIC ENERGY TO CANADA

(Issued September 30, 1966)

Pacific Power & Light Company (Applicant) a corporation organized under the laws of the State of Maine and authorized to do business in the States of Oregon and Washington, California, Idaho, Montana and Wyoming with its principal business office at Portland, Oregon, filed an application on June 27, 1966, as supplemented on July 26, 1966 and August 22, 1966, seeking an order pursuant to Section 202(e) of the Federal Power Act authorizing it to sell electric energy to British Columbia Hydro and Power Authority (B.C. Hydro), Vancouver, province of British Columbia, Canada.

According to the application, Applicant proposes to export to B.C. Hydro electric energy in an amount not in excess of 500,000,000 kwh annually at a rate not in excess of 170,000 kw. The energy is to be delivered over existing transmission interconnections between Bonneville Power Administration (BPA) and B.C. Hydro. Alternatively, Applicant will make the energy available from exchange account energy balances due Applicant from BPA[1], from secondary hydro energy available to Applicant from other sources or from thermally generated energy supplied from Applicant's Dave Johnston steam-electric generating plant in Wyoming.

Applicant's contractual arrangements with B.C. Hydro provide for delivery of the energy during the period October 1, 1966 through April 30, 1967 with renewal provisions covering the periods October 1, 1967 through April 30, 1968 and October 1, 1968 through April 30, 1969.

According to Applicant the energy is expected to be delivered to BPA at a greater rate during off-peak hours, such as during night-time hours and on weekends, than at other times. BPA's schedules of deliveries to B.C. Hydro will be as agreed upon between their representatives, with BPA being obligated to make deliveries on demand whether on peak or off peak.

The energy to be exported will be delivered by BPA over its existing interconnection with B.C. Hydro near Blaine, Washington[2]. This interconnection includes two 230 kv circuits with one circuit designed for 500 kv. The latter circuit is expected to begin operation at design voltage in the fall of 1968; the interconnection has more than sufficient capacity to deliver the requested amount. Moreover, the amount of energy to be delivered is subject to determination by the BPA that transmission capacity is available in excess of other requirements for the system.

Applicant has completed transmission arrangements with Utah Power & Light Company and Idaho Power Company for displacement deliveries of any energy generated at Applicant's Wyoming steam-electric generating facilities. Those arrangements are reflected in Utah Power & Light Company's Rate Schedules FPC Nos. 102A and 102B, Idaho Power Company's Rate Schedules FPC Nos. 28 and 46, and Applicant's Rate Schedules FPC Nos. 69A and 69B. Applicant would deliver such energy from the Dave Johnston plant to Utah Power & Light Company which would then credit Idaho Power Company with these deliveries. Idaho Power Company would then deliver energy to Applicant's Oregon system.

B.C. Hydro will pay Applicant each month 4.25 mills per kwh delivered plus any wheeling charges assessed against Applicant by Idaho Power Company and plus any wheeling charges or losses assessed by BPA. To the extent Applicant is required to schedule energy from its Wyoming system to

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[1] For the purpose of achieving efficient utilization of productive capacity, BPA and Applicant exchange, upon request, excess hydro-generated energy. Applicant upon request by BPA, supplies to BPA's customers excess hydro-generated and thermal-generated energy as Applicant may have available, and transfers energy over its system to customers of BPA for the account of BPA. That energy is credited to Applicant in an exchange energy account and is returned to the supplier at times and at rates of delivery mutually agreed upon (Applicant's Rate Schedule FPC Nos. 28 and 45).

[2] BPA will transmit the energy to Canada over facilities authorized by a Presidential Permit of October 27, 1945, as amended November 30, 1965, FPC Docket No. IT-5959.

Idaho for transfer to BPA, Applicant will pay Idaho Power Company and will charge B.C. Hydro 0.5 mills per kwh transmitted in excess of 75,000,000 kwh plus an annual minimum of $37,500 whether or not energy is transmitted. Idaho Power Company agrees to consider its losses to be zero for the displacement of energy across its system.

The proposed exportation of electric energy to B.C. Hydro will not impair the sufficiency of electric supply within the United States. Generating capacity is available to Applicant throughout its interconnected electric facilities to meet electric loads including the proposed exportation of energy.

Written notice of the application has been given to the Oregon Public Utility Commissioner, Washington Utilities and Transportation Commission, Idaho Public Utilities Commission, to the Montana Board of Railroad Commissioners, the Wyoming Public Service Commission and to the California Public Utilities Commission and the Governors of those States. Notice of the application has also been given by publication in the Federal Register on July 13, 1966 (31 F.R. 9514), stating that any person desiring to be heard or to make any protest with reference to the application should, on or before July 25, 1966, file with the Federal Power Commission, Washington, D.C. 20426, a petition or protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No protest or petition or request to be heard in opposition to the granting of the application has been received.

The Commission finds:

(1) The proposed transmission of electric energy from the United States to Canada as limited herein and as hereinafter authorized will not impair the sufficiency of electric supply within the United States and will not impede or tend to impede the coordination in the public interest of facilities subject to the jurisdiction of the Commission.

(2) The period of public notice given in this matter is reasonable.

The Commission orders:

(A) Applicant is hereby authorized to transmit electric energy from the United States to Canada in accordance with the terms and conditions set forth in the application and subject to the provisions of this order.

(B) The electric energy which Applicant is hereby authorized to transmit from the United States to Canada shall be in an amount not in excess of 500,000,000 kwh per year at a transmission rate not to exceed 170,000 kw, and the energy shall be transmitted over the facilities specified in the application.

(C) The authorization herein granted may be modified from time to time or terminated by further order of the Commission, but in no event shall such authorization extend beyond April 30, 1969.

(D) Applicant shall conduct all operations pursuant to the authorization herein granted in accordance with the provisions of the Federal Power Act and pertinent rules, regulations or orders issued by the Commission.

(E) No electric energy shall be delivered under this authorization when such energy would otherwise be utilized to serve ultimate consumers in the United States who would be deprived of service or suffer a material limitation, curtailment, or impairment of service.

(F) Applicant shall provide for the installation and maintenance of adequate metering equipment to measure the flow of all energy transmitted from the United States to Canada pursuant to the authority herein granted; shall make, keep and preserve full and complete records with respect to the movement of such energy; and shall furnish, in triplicate, to the Commission, with respect to such transmission of electric energy, reports annually on or before February 15, showing the kw hours delivered, the maximum kw of transmission, and the consideration received therefor during each month of the preceding year.

(G) This authorization to transmit electric energy from the United States to Canada shall not be transferable or assignable, but in the event of the involuntary transfer of the facilities used for such transmission by operation of law (including such transfers to receivers, trustees, or purchasers under foreclosure or judicial sale) said authorization shall continue in effect temporarily for a reasonable time thereafter, pending the making of an application for permanent authorization and decision thereon, provided notice is promptly given in writing to the Commission accompanied by a statement that the physical facts relating to sufficiency of supply, rates, and nature of use remain substantially the same as before the transfer.

(H) This authorization shall be without prejudice to the authority of any State or State regulatory commission for the exercise of any lawful authority vested in the State or State regulatory commission over Applicant.

(I) This authorization is without prejudice to the authority of this Commission, or any other regulatory body, with respect to rates, service, accounts, valuation, estimates or determinations of cost, or any other matter whatsoever now pending or which may come before this Commission, or any other regulatory body, and nothing herein shall be construed as an acquiescence by this Commission in any estimate or determination of cost or any valuation of property claimed or asserted.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Carl E. Bagge and John A. Carver, Jr.

TRANSCONTINENTAL GAS PIPE LINE CORPORATION, DOCKET NO. CP65-181 (PHASE II)

ORDER PERMITTING INTERVENTION

(Issued September 30, 1966)

On August 30, 1966, Citizens for Clean Air, Inc. (CCA) filed a motion for leave to intervene out of time and a petition to intervene in the above-entitled proceedings [1] which involve the proposed sale of an additional 55,000 Mcf per day of contract demand gas (Rate Schedule CD-3) by Transcontinental Gas Pipe Line Corporation (Transco) to Consolidated Edison Company of New York, Inc. (Con Ed) in substitution for deliveries of 55,000 Mcf per day of Transco's storage service (Rate Schedule GSS) now being rendered. This proposal originally was consolidated with other applications in Columbia Gulf Transmission Co., *et al.*, Docket No. CP65-102, *et al.* However, on March 25, 1966, after the close of hearings in those proceedings, but prior to an Examiner's decision, the United States Department of Health, Education, and Welfare (Department) filed a motion for leave to intervene out of time, confining its interest to the issue of air pollution which is involved in Transco's proposed service to Con Ed. Certain matters raised by the Department required that the record be reopened for the presentation of additional evidence and, accordingly, the Commission severed this portion of Transco's application and provided for further hearings which are now scheduled to commence October 4, 1966.[2]

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[1] No party has filed an answer to the motion or opposed CCA's intervention.

CCA alleges that it is an organization of New York area residents concerned about the city's air pollution problem, that it is familiar with the views of New York area residents and is cognizant of local efforts being made to combat air pollution, and that it should be permitted to intervene in order to present its views based on its knowledge of the local situation. CCA contends that the desirability of its participation in this proceeding was not apparent prior to the order of April 29, 1966, permitting the Department's intervention and severing proceedings. CCA also states that the full extent of the Commission's interest in the air pollution issue was not revealed until the Presiding Examiner issued his initial decision of June 13, 1966, in which this issue was discussed. CCA requests permission to present witnesses at the hearings, to file briefs before the Examiner and the Commission, to participate in oral argument, if any, before the Commission, and to exercise all rights and prerogatives of a party to the proceeding.

It may be that CCA represents an interest not otherwise represented in the proceedings although we note that the City of New York is a party to the proceeding and has presented evidence directed to the air pollution issue. However, in order to assure a full record we will grant CCA's motion and permit it to intervene in the proceedings. Although we are generally reluctant to grant intervention out of time, considerations exist with respect to CCA's motion to intervene which, we think, justify granting its intervention. We did not provide for additional interventions after severing the proceedings and, since the Department of Health, Education, and Welfare's intervention injected a new emphasis on the air pollution issue, we can appreciate that CCA may have realized that it had an interest in the proceeding which was not previously apparent to it. CCA's motion and petition to intervene were filed on August 30, 1966, and its proposed direct testimony in the reopened proceedings was served on September 21, 1966, prior to the scheduled resumption of the hearings on October 4, 1966. Therefore, its intervention and participation will not disrupt the orderly procedures in this case.

The Commission finds:

(1) Although the petition to intervene filed by Citizens for Clean Air, Inc. was not filed within the time required by Section 1.8(d) of the Commission's Rules of Practice and Procedure (18 CFR 1.8(d)), good cause exists to permit the late filing.

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[2] The order permitting intervention and severing proceedings was issued April 29, 1966, in Columbia Gulf Transmission Co., *et al.*, Docket No. CP65-102, *et al.* Dates for service of evidence and commencement of hearings were postponed by notices issued May 13, 1966, and June 24, 1966.

(2) It is desirable and in the public interest to allow Citizens for Clean Air, Inc. to intervene in these proceedings in order that it may establish the facts and the law from which the nature and validity of its alleged rights and interests may be determined and show what further action may be appropriate under the circumstances in the administration of the Natural Gas Act.

The Commission orders:

Citizens for Clean Air, Inc. is hereby permitted to become an intervenor in these proceedings subject to the rules and regulations of the Commission: *Provided, however,* that its participation shall be limited to matters affecting asserted rights and interests as specifically set forth in its petition for intervention; and *provided, further,* that the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Carl E. Bagge and John A. Carver, Jr.

CITIES SERVICE GAS COMPANY, DOCKET NO. CP67-37

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued October 3, 1966)

On August 18, 1966, Cities Service Gas Company (Applicant) filed in Docket No. CP67-37 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and the sale and delivery of natural gas to The Gas Service Company (Gas Service) for resale to customers in and about the cities of Dearborn, Camden Point, Edgerton and Gower and the villages of Grayson, New Market and Trimble, Missouri, all as more fully set forth in the application.

Specifically, Applicant proposes to construct and operate approximately 4.9 miles of 6-inch pipeline and two metering and related appurtenant facilities all in Platte County, Missouri.

The estimated third year peak day and annual natural gas requirements of Gas Service are 996 Mcf and 76,885 Mcf, respectively. The proposed sale for resale will be made under Applicant's F-2, C-2 and I-2 FPC Gas Rate Schedules.

The total estimated cost of Applicant's proposed facilities is $82,200, which cost will be financed from cash on hand.

After due notice, no petition to intervene, notice of intervention or protest has been filed herein.

At a hearing held on September 29, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Cities Service Gas Company, a Delaware corporation with its principal place of business in Oklahoma City, Oklahoma, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of December 28, 1943, in Docket No. G-298 (4 FPC 471).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof and the sale of natural gas by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The aforesaid construction and operation of facilities and transportation and sale of natural gas are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, Cities Service Gas Company, authorizing the construction and operation of facilities and transportation and sale of natural gas hereinbefore described, as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

(C) The facilities hereby authorized shall be constructed and placed in actual operation, as provided by paragraph (b) of Section 157.20 of the Regulations under the Natural Gas Act, within six months from the date on which this order issues.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Carl E. Bagge and John A. Carver, Jr.

GEORGE H. COATES, DOCKET NOS. G–19824 AND RI61–369

ORDER GRANTING MOTION FOR CLARIFICATION AND TERMINATING PROCEEDINGS

(Issued October 3, 1966)

By order issued April 12, 1966, 35 FPC 490, in the above-entitled proceedings the Commission deferred the obligation of George H. Coates (Coates) to pay interest on refunds relating to increased production taxes paid to the State of Texas until action was taken on his motion for clarification. By such motion Coates sought relief from the obligation in the settlement order issued August 20, 1965, 34 FPC 550, herein to pay interest on refunds insofar as such refunds related to increased production taxes paid to the State of Texas. Coates has made all of the refunds, including interest, required by the August 20 order except for the $310.43 interest amount in dispute here.

Action on Coates' motion has been deferred pending disposition of the rulemaking proceeding in Docket No. R–280 relating to this same subject. By Order No. 326 issued September 6, 1966, 36 FPC 582, the Commission revised § 154.102 of its Regulations under the Natural Gas Act to relieve independent producers from their obligation to pay interest on that portion of an increased rate found to be unjustified which relates to royalties or taxes they are required to pay to federal or state governmental authorities to the extent refunds are made by such authorities without interest.

Coates in his motion states that he will not be paid any interest by the State of Texas on any portion of the increased production taxes which were refunded herein. Consistent with our action in Order No. 326 we conclude that Coates should be relieved of any interest obligation on refunds relating to such increased production taxes. Since Coates has complied with all of the provisions of the August 20 order except for the interest payment involved here, it is appropriate to terminate the above-entitled proceedings without requiring further refunds.

The Commission orders:

For the reasons set forth above, Coates is relieved of his obligation to pay interest on refunds attributable to increased production taxes paid to the State of Texas, and Docket Nos. G-19824 and RI61-369 are severed from Docket No. AR64-2 and terminated.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Carl E. Bagge and John A. Carver, Jr.

GEORGE DESPOT, AGENT (OPERATOR), ET AL., DOCKET NO. CI65-974; MAXWELL HERRING DRILLING CORPORATION (OPERATOR), ET AL., CI65-1176; SKELLY OIL COMPANY, CI66-468; PHILLIPS PETROLEUM COMPANY, CI66-500; INTERNATIONAL HELIUM, INC. (OPERATOR), ET AL., CI66-564; J. W. BATON (OPERATOR), ET AL., CI66-1169; W. R. HUGHEY OPERATING COMPANY, AGENT (OPERATOR), ET AL., CI66-1170; ROBBINS PETROLEUM CORPORATION (OPERATOR), ET AL., CI66-1208; B. REAGAN MCLEMORE, ET AL., CI66-1220; TRICE PRODUCTION COMPANY (OPERATOR), ET AL., CI66-1228; PHILLIPS PETROLEUM COMPANY, CI66-498; TEXACO INC., CI66-536, CI66-537; HUMBLE OIL & REFINING COMPANY, CI66-591; PHILLIPS PETROLEUM COMPANY, CI66-1038; NORTHERN PUMP COMPANY (OPERATOR), ET AL., CI66-1124; FOREST OIL CORPORATION (OPERATOR), ET AL., CI66-1159; FOREST OIL CORPORATION, CI66-1160; GULF OIL CORPORATION, CI66-68; MOBIL OIL CORPORATION, CI65-1227, CI67-338; TEXACO INC. (OPERATOR), ET AL., CI67-170; J. C. TRAHAN, DRILLING CONTRACTOR, INC. (OPERATOR), ET AL., CI67-132; GULF OIL CORPORATION, G-16141; CONTINENTAL OIL COMPANY, CI66-1099; UNION TEXAS PETROLEUM, A DIVISION OF ALLIED CHEMICAL CORPORATION, ET AL., CI66-1167; MOBIL OIL CORPORATION, CI67-364; SINCLAIR OIL & GAS COMPANY, CI67-365

ORDER CONSOLIDATING ORDERS TO SHOW CAUSE AND SETTING PROCEDURES

(Issued October 3, 1966)

On September 14, 1966, 36 FPC 632, 628, orders to show cause were issued separately by the Commission in the following proceedings:

(a) Socony Mobil Oil Company, Inc., Docket No. CI65-1227 and

(b) George Despot, Agent (Operator), *et al.*, Docket No. CI65-974, *et al.*

The latter proceeding (*i.e.*, George Despot, Agent (Operator), *et al.*) represents a consolidation of 20 dockets involving common questions of law and fact.

It appears that Docket No. CI65-1227 involves essentially the same issues of law and fact as the consolidated dockets captioned George Despot, Agent

(Operator), *et al.*, Docket No. CI65–974, *et al.*, *i.e.*, that in all of the above-mentioned dockets the Commission has not authorized the sales of gas for compressor fuel or other purported intrastate use and that under the holding of the Supreme Court in *California* v. *Lo-Vaca Gathering Co.*, 379 U.S. 366 they appear to be jurisdictional sales.

Docket Nos. CI67–338 and CI67–170 involve applications for certificates to sell natural gas pursuant to new contracts rededicating acreage from which sales were previously made without authorization from the Commission on the purported ground that such sales were nonjurisdictional. Docket No. CI67–132 involves an application to sell gas to Lone Star Gas Company similar to certain sales already consolidated in George Despot, *et al.*, Docket No. CI65–974, *et al.* Docket No. G–16141 involves an amended letter agreement which now dedicates acreage to jurisdictional sales from which previous sales have been made without Commission authorization. Docket Nos. CI66–1099, CI67–364 and CI67–365 involve sales to El Paso similar to the sales to Lone Star previously consolidated in George Despot, Agent (Operator), *et al.*, Docket No. CI65–974, *et al.*, *i.e.*, sales restricted by contract for intrastate use but commingled with gas purchased from other producers and transported to points outside the state. It is apparent that all of the above sales, with some minor variation in the facts, are nevertheless jurisdictional sales under the holding of the Supreme Court in *California* v. *Lo-Vaca Gathering Co.*, *supra.*

Consequently, in order to avoid unnecessary duplication of a trial record on substantially the same issues it would be in the public interest to consolidate the above dockets including the already issued order to show cause in Docket No. CI65–1227 and to provide uniform procedures for presentation of evidence and dates of hearing.

The Commission finds:

(1) It is appropriate and in the public interest that the above-captioned matters be consolidated for hearing and decision as hereinafter ordered.

(2) The expeditious disposition of these proceedings may be effectuated by providing a uniform procedure for prehearing conference and dates of public hearing.

The Commission orders:

(A) Docket Nos. CI65–1227, CI67–338, CI67–170, CI67–132, G–16141, CI66–1099, CI66–1167, CI67–364, and CI67–365 are hereby consolidated with Docket No. CI65–974, *et al.* for the purposes of hearing and decision.

(B) The prehearing conference provided for on October 26, 1966, in paragraph (D) of the order to show cause captioned George Despot, Agent (Operator), *et al.*, Docket No. CI65–974, *et al.*, as well as the other procedures in that order shall also apply to the following companies:

	Docket Nos.
Mobil Oil Corp	CI65–1227
Do	CI67–338
Texaco Inc. (Operator), *et al*	CI67–170
J. C. Trahan, Drilling Contractor, Inc. (Operator), *et al*	CI67–132
Gulf Oil Corp	G–16141
Continental Oil Co	CI66–1099
Union Texas Petroleum, a division of Allied Chemical Corp., *et al*	CI66–1167
Mobil Oil Corp	CI67–364
Sinclair Oil & Gas Co	CI67–365

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Carl E. Bagge and John A. Carver, Jr.

NORTHERN NATURAL GAS COMPANY, DOCKET NO. CP66-409 (PHASE I) *

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued October 3, 1966)

On June 10, 1966, Northern Natural Gas Company (Applicant) filed in Docket No. CP66-409 (Phase I), as supplemented on August 15, 1966, an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities in order to sell and deliver increased quantities of natural gas to certain existing utility customers and, through its Peoples Natural Gas Division, to increase firm natural gas service to John Deere Dubuque Tractor Works of Deere & Co. (Deere Tractor) and to Erie Mining Company (Erie) and to initiate firm natural gas service to Central Farmers Fertilizer Company (Central Farmers), Cenex, Inc. and the National Steel Pellet Plant of the Hanna Mining Company (Hanna), all as more fully set forth in the application in this proceeding.

Applicant proposes to increase its system capacity by 26,231 Mcf of gas per day. Of this amount, 15,060 Mcf per day is to enable Applicant's utility customers to meet the necessary growth requirements for presently served communities and 11,173 Mcf per day is for industrial service through the Peoples Division or for the industrial service of Applicant's utility customers. Applicant has entered into contracts dated May 5, 1966, and April 13, 1966, with Hanna and Erie, respectively, providing for maximum daily deliveries by Applicant of 8,200 Mcf to Hanna and 17,000 Mcf to Erie. However, Hanna and Erie may exercise their respective rights to have the daily delivery volume reduced to a minimum of 7,200 Mcf in the case of Hanna and 15,000 Mcf in the case of Erie after each buyer has determined what its respective precise maximum daily requirement will be. In the event Hanna or Erie exercises its right to reduce the daily volume, Applicant shall be required to file a petition to amend the subject order to authorize any lower contract demand.

Applicant also requests approval of reductions in effective maximum daily deliveries for certain communities and industrial customers presently served by three of its utility customers, North Central Public Service Co., Western Power & Gas Co. and Applicant's Peoples Division. These reductions to individual communities or industrial customers do not constitute a decrease in the overall effective contract demands of the three utility customers involved.

Specifically, Applicant proposes to construct and operate: (1) approximately 37.3 miles of 30 and 36-inch pipeline loop in the states of Kansas, Nebraska, Iowa and Minnesota, (2) approximately 2.2 miles of 10-inch branchline, together with necessary measuring facilities, for service to Hanna's plant at Keewatin, Minnesota, and (3) piping yard changes in Beaver, Oklahoma.

The total estimated cost of the proposed facilities in Phase I is $5,568,138, which cost will be financed from cash on hand, reserve accruals and retained earnings.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

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* This application, as supplemented, is divided into two Phases. This order pertains exclusively to Phase I of said application, as supplemented.

At a hearing held on September 29, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, supplement and exhibits submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Northern Natural Gas Company, a Delaware corporation having its principal place of business in Omaha, Nebraska, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of April 6, 1943, in Docket No. G–280 (3 FPC 967).

(2) The facilities hereinbefore described, as more fully described in the application, as supplemented, in this proceeding (Phase I), are to be used in the transportation and/or sale of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof and the proposed transportation and/or sales of natural gas by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities and the proposed transportation and/or sales of natural gas by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(6) Applicant should file a petition to amend the subject order to authorize any lower contract demand for Hanna and Erie should their respective precise demands to be subsequently determined be lower than the maximum daily volume of 8,200 Mcf for Hanna and 17,000 Mcf for Erie hereinafter authorized to be transported and delivered to said companies.

(7) The authorization hereinafter granted should be without prejudice to Applicant's right to request amendment of the subject order to authorize Phase II facilities.

(8) This certificate should not entitle the industrial customers to whom firm deliveries are authorized herein to any priorities to additional gas for meeting any future increases in their requirements at the expense of firm resale customers desiring to acquire additional gas to meet any future increases in their requirements.

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Applicant, Northern Natural Gas Company, to construct and operate the proposed facilities and to sell and/or transport and deliver the maximum daily firm volumes of natural gas as set forth in column 7 of pages 6, 7 and 8 of Exhibit I of the subject application, as hereinbefore described, all as more fully described in the application, as supplemented, in this proceeding (Phase I), upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be constructed and placed in actual operation and the sales and/or transportation and deliveries of natural gas authorized in paragraph (A) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, by November 1, 1967.

(D) Applicant shall file a petition to amend the subject order to authorize any lower contract demand for Hanna and Erie should their respective precise contract demands to be subsequently determined be lower than the maximum daily volume of 8,200 Mcf for Hanna and 17,000 Mcf for Erie authorized in paragraph (A) above to be transported and delivered to said companies.

(E) The authorization granted in paragraph (A) above is without prejudice to Applicant's right to request amendment of the subject order to authorize Phase II facilities.

(F) This certificate shall not entitle the industrial customers to whom firm deliveries are authorized herein to any priorities to additional gas for meeting any future increases in their requirements at the expense of firm resale customers desiring to acquire additional gas to meet any future increases in their requirements.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

ALABAMA POWER COMPANY AND MOUNT VERNON MILLS, INC., DOCKET NO. E-7314

ORDER APPROVING HEADWATER BENEFITS SETTLEMENT

(Issued October 4, 1966)

This order, issued under Section 13.1 of the Commission's Regulations under the Federal Power Act, approves a settlement between the Alabama Power Company (Alabama Power) and Mount Vernon Mills, Inc. (Mount Vernon Mills), that Alabama Power's Martin development, Project No. 349, and its Yates development, Project No. 2407, in the Tallapoosa River basin in Alabama do not provide headwater benefits to the generating facilities of Mount Vernon Mills at the downstream Thurlow development, Project No. 2408. The settlement, dated March 22, 1966, was filed on April 4, 1966.

Alabama Power and Mount Vernon Mills are joint applicants for a license for the Thurlow development. Alabama Power owns two 25,000 kilowatt generating units at the project, and Mount Vernon Mills owns an 8,000 kilowatt unit. The Commission issued a license order on April 5, 1965, 33 FPC 670; at the request of the joint applicants, rehearing of the order was granted. The proceeding is now pending before the Commission on rehearing.

By an indenture dated June 8, 1923, Alabama Power and Mount Vernon Mills settled a dispute concerning their rights in the stream flow of the Tallapoosa. Mount Vernon Mills conveyed to Alabama Power certain rights in land and water; it reserved, as a condition of the conveyance, the right to generate up to 475,000 kilowatt-hours of electric energy in a calendar week at a maximum rate of 10,000 electrical horsepower (about 8,000 kilowatts). Alabama Power agreed to make sufficient releases from its upstream developments to permit generation as needed within these limits or to provide substitute energy.

Under the indenture, Alabama Power is entitled to all energy in excess of the requirements of Mount Vernon Mills which its 8,000 kilowatt unit is capable of generating. Thus, the specified amount of energy to which Mount Vernon Mills is entitled was not changed by the construction by Alabama Power of the Martin and Yates projects.

The Commission finds:

It is appropriate and in the public interest in administering Part I of the Federal Power Act that the above-described settlement be approved under Section 13.1 of the Regulations under the Federal Power Act, in lieu of a headwater benefits determination under Section 10(f) of the Act (16 U.S.C. 803(f)).

The Commission orders:

The settlement dated March 22, 1966, between the Alabama Power Company and Mount Vernon Mills, Inc., is hereby approved under Section 13.1 of the Commission's Regulations under the Federal Power Act.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Carl E. Bagge and John A. Carver, Jr.

SOUTH GEORGIA NATURAL GAS COMPANY, DOCKET NO. CP65-392

ORDER FURTHER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued October 5, 1966)

On August 10, 1966, South Georgia Natural Gas Company (Applicant) filed in Docket No. CP65-392 an application to amend the order of the Commission issued July 27, 1965, 34 FPC 122, as amended March 14, 1966, 35 FPC 382, authorizing, among other things, the construction and operation of facilities. The Commission in its said order fixed the times for completion of facilities and commencement of service to and including August 1, 1966. By the subject request Applicant seeks extension of the time period to March 1, 1967, all as more fully set forth therein.

Applicant states it has commenced construction of the facilities authorized in the above-captioned docket by the Commission's order issued July 27, 1965. Applicant further states the construction of the facilities authorized by the above-described orders has been subsequently completed except for minor clean-up and paint-up but that The City of Jasper, Florida (Jasper) proposed to be served by South Georgia, is not ready to accept delivery of gas. South Georgia is advised by representatives of Jasper that Jasper has completed its financial arrangements, has received construction bids for the construction of a proposed gas distribution system and expects to place a work order to begin construction within the next few days. Jasper engineers have advised South Georgia that gas service is expected to be initiated by Jasper by February 28, 1967.

The Commission orders:

(A) The Commission's order issued July 27, 1965, in Docket No. CP65-392 is further amended by extending the time for completion of facilities to March 1, 1967, all as hereinbefore described and as set forth in the subject application to amend.

(B) In all other respects said order shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

CITY OF TACOMA, WASHINGTON, PROJECT NO. 1862

ORDER AUTHORIZING SALE AND LEASE OF PARCELS OF PROJECT LANDS AND APPROVING REVISED PROJECT EXHIBIT

(Issued October 5, 1966)

On April 18, 1966, the Department of Public Utilities, on behalf of the City of Tacoma, Washington, licensee for Project No. 1862, filed application for Commission authorization of certain changes in the project boundary involving a sale of a parcel of project lands and the leasing of another parcel of project lands. We are asked also to approve a revised Exhibit K reflecting the changes in project boundary.

The licensee proposes to sell approximately 0.9 acre and lease approximately 4 acres of project lands to a private individual for expansion of a resort development at Alder Reservoir. Both the lands to be sold and the lands to be leased lie in the SW¼, Section 11, T. 15 N., R. 4 E., W. M., Pierce County, Washington. By our order of March 29, 1965, 33 FPC 653, we authorized a sale and lease of parcels of the project lands to the same individual for resort purposes, and the parcel now proposed to be sold is a part of the land we approved to be leased in our March 29, 1965 order, and will be used to provide an area for the purchaser's permanent facilities, which include a lodge and cafe. The lands to be leased will be used to encompass the permanent recreational facilities to be constructed by the licensee's Light Division, which will include a boat ramp and house, a picnic shelter, comfort station and tenting sites. All of the lands will be open to the public, with some uses on a fee basis, and will provide greater public enjoyment of outdoor recreational opportunity at Alder Reservoir. Adequate lands for future recreational development are available, including lands administered by the U.S. Forest Service and the State of Washington, and lands owned by the licensee within the project boundary.

The lands proposed to be sold lie wholly above the 1,207 foot elevation which is the extreme design flood level of Alder Reservoir. The lands proposed to be leased lie mainly below the 1,207 foot elevation.

The Commission finds:

It will not be inconsistent with the public interest to authorize the sale and leasing of the subject parcels of project lands as hereinafter provided, and to approve the revised Exhibit K.

The Commission orders:

(A) City of Tacoma, Washington, is hereby authorized to effect the sale of the project land herein involved, as hereinafter provided.

(B) City of Tacoma, Washington, is hereby authorized to lease the parcel of project land herein involved, subject to the reservation in the lease of the rights of the licensee, its successors and assigns to use such land for project purposes.

(C) Our approval of the sale and leasing of the parcels of project lands herein involved is subject to the condition that the licensee incorporate in any agreements effectuating such sale and lease, a covenant or condition ensuring that the use of such parcels will not endanger health, create a nuisance or otherwise be incompatible with paragraph (C) of the Commission's Order No. 313, issued December 27, 1965, 34 FPC 1546 (18 CFR 2.7(c)).

(D) The licensee shall file copies of the deed of conveyance and lease with the Commission within 30 days of the date or dates of their execution.

(E) Revised Exhibit K (FPC No. 1862–39) is hereby approved as part of the license for Project No. 1862.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Carl E. Bagge and John A. Carver, Jr.

PANHANDLE EASTERN PIPE LINE COMPANY, DOCKET NO. CP66–50

ORDER ON RECONSIDERATION

(Issued October 6, 1966)

On August 10, 1966, 36 FPC 417, the Commission issued a temporary certificate of public convenience and necessity to Panhandle Eastern Pipe Line Company (Panhandle) to transport and deliver up to 3000 Mcf of natural gas to H. K. Porter Co., Inc. (Porter). Delivery was to be made through the existing facilities of the City of Fulton, Missouri (Fulton), in which the Porter plant is located. The application of Panhandle for a temporary certificate to construct and operate 1.25 miles of new pipeline facilities to convey the gas directly to Porter without the use of Fulton's facilities was denied. On September 6, 1966, Panhandle filed an application for reconsideration or alternatively for rehearing of the August 10, 1966 order. Panhandle stated that it could not accept the temporary certificate offered and urged that the temporary certificate be modified to accord with that requested by Panhandle.

Fulton and Panhandle are engaged in a contest in this proceeding. Each seeks to supply Porter's gas requirements. To grant the temporary certificate requested by Panhandle would permit the construction of facilities which would not be useful to anyone beyond the term of the temporary certificate in the event Fulton should be successful in obtaining a permanent certificate. The Commission therefore sought a way in which gas might be furnished to Porter during the period while this case is under consideration, without construction of new facilities which might prove to be useless in the light of the later decision of the Commission. Since the Fulton facilities for delivery are in place, it seemed that gas could be delivered without further construction of any kind, and the status quo between the parties be thus preserved until a final determination could be made. To authorize construction that could be used by one party only might well be considered prejudicial to an objective ultimate determination.

Panhandle argues that it could not be expected to inject its own gas into Fulton's facilities for delivery to Porter because Fulton's system has lost one eighth of all gas delivered to it by Panhandle in the last four years. This argument is quite beside the point. Fulton would be obligated to deliver gas to Porter in amounts equal to the gas received from Panhandle for that purpose, and Panhandle would bear no risk of loss. Equally unfounded is Panhandle's argument that it would be necessary to construct a measuring station to determine the volume of gas delivered to Porter. Fulton would meter the gas delivered through its facilities to Porter. Panhandle can measure the gas delivered to Fulton for that purpose with its existing facilities. No additional new facilities are needed under the temporary certificate proposed by the Commission.

Panhandle states that to accept a temporary certificate to deliver up to 3000 Mcf of gas without a cut-off date might impair service to its other customers when cold weather comes, since there is not the capacity in the present lateral to deliver 3000 Mcf for Porter except by taking capacity away from Fulton, Harbison-Walker, or Missouri Power and Light Company, the three existing customers served by the existing lateral. Additional facilities must be completed by the time cold weather arrives in order to avoid this, Panhandle urges, but it cannot be sure the Commission will reach a determination in time to permit this to be done.

We are informed that the City of Fulton is delivering gas to Porter in the interim period, it would appear that the temporary certificate for Panhandle may no longer be necessary. Nevertheless, to remove any possibility of doubt our prior order will be modified to provide that delivery of 3000 Mcf a day to Fulton for delivery to Porter shall be made by Panhandle only to the extent that it has gas available for such delivery after the demands of existing customers upon the existing lateral have been satisfied. In the event of interruption of gas delivery by reason of mainline limitation, Porter is to be treated in the same manner as interruptible customers.

With the modification indicated, the order of August 10, 1966, will be adhered to.

The Commission finds:

(1) The order of August 10, 1966 in this proceeding, issuing a temporary certificate of public convenience and necessity to Panhandle Eastern Pipe Line Company, should be modified by providing that delivery of gas for H. K. Porter Co., Inc. should be subject to the limitation that in so far as the physical capacity of the existing Fulton lateral may limit the supply of gas available to customers (including H. K. Porter Company, Inc.) served by such lateral to less than the total amount of gas deliverable under existing contracts and actually called for by the purchasers, the actual demands of present customers shall be satisfied to the extent required by existing contracts in preference to any requirements of H. K. Porter Co., Inc., during the period the temporary certificate may be in effect.

(2) Except as stated in Finding (1), the application for rehearing, reconsideration and modification filed by Panhandle Eastern Pipe Line Company in this proceeding presents no new facts or principles of law which were not fully considered by the Commission or which upon due consideration warrant any change in or modification of the order of August 10, 1966 in this proceeding.

The Commission orders:

(A) Notwithstanding any provision to the contrary in Ordering Paragraph (B) of our order issued August 10, 1966, in this proceeding, delivery of gas for H. K. Porter Company, Inc. shall be made only to the extent such delivery may be made without curtailing deliveries through the existing Fulton lateral to present customers (other than H. K. Porter Company, Inc.) of amounts of gas actually demanded by them within the limits of their present contracts. Notwithstanding anything to the contrary herein, a reduction in deliveries to existing customers by reason of mainline limitations, and not by reason of limitations in the capacity of the existing Fulton lateral facilities, shall not be such curtailment as to entitle existing customers to preference over H. F. Porter Company, Inc., and H. K. Porter Company, Inc. shall be treated equally with other interruptible customers in the event of any interruption by reason of any limitation of service not arising from the limited capacity of the Fulton lateral facilities.

(B) Said order of August 10, 1966, in this proceeding, except as modified herein, is in all respects confirmed.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Carl E. Bagge and John A. Carver, Jr.

TENNESSEE GAS PIPELINE COMPANY, A DIVISION OF TENNECO INC., DOCKET NO. CP67-8 AND TRUNKLINE GAS COMPANY, DOCKET NO. CP67-32

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

(Issued October 6, 1966)

Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) filed in Docket No. CP67-8 on July 14, 1966, and Trunkline Gas Company filed in Docket No. CP67-32 on August 12, 1966, their respective applications pursuant to Section 7 of the Natural Gas Act for certificates of public convenience and necessity authorizing the construction and operation of facilities and the transportation of natural gas, all as more fully set forth in the applications.

Tennessee and Trunkline entered into a contract dated June 15, 1966, under the terms of which Tennessee will transport for the account of Trunkline, the volumes of natural gas Trunkline contracted to purchase from Tenneco Oil Company under a contract dated June 10, 1966, covering the sale and purchase of natural gas to be produced initially by Tenneco from the Lake Barre Field, Terrebonne Parish, Louisiana. Tenneco will deliver the gas to Tennessee for transportation and redelivery to Trunkline at a proposed point of interconnection in Jefferson Davis Parish, Louisiana. Tenneco has filed an application for a certificate for the sale to Trunkline in Docket No. CI66-1314. Tennessee proposes a transportation charge of $0.41 per Mcf of demand per month and a volume charge of $0.0128 per Mcf of gas delivered (at 15.025 psia). Tennessee will transport up to 30,000 Mcf per day for Trunkline.

In order to effectuate the proposals set forth in the applications Tennessee will construct and operate 1,188 feet of 6-inch pipeline and metering station at a point where its Sabine-Kinder 30-inch line crosses Trunkline's Longville-Kaplan 30-inch line, in Jefferson Davis Parish, Louisiana. The facilities will cost an estimated $44,000, and will be defrayed from general funds or revolving credit. Trunkline will construct and operate a tap, side valve and connecting facilities at the point of line crossing with Tennessee, as stated. The total estimated cost of Trunkline's facilities is $2,050 and will be paid from company funds.

Tennessee states that upon issuance of the requested certificate authorization it will file the transportation agreement with Trunkline as a part of its FPC Gas Tariff, Fourth Revised Volume No. 2.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application, has been filed.

At a hearing held on October 6, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and exhibits, submitted in support of the authorization sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, Trunkline Gas Company, a Delaware corporation having its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of April 29, 1949, in Docket No. G-882 (8 FPC 250).

(2) Applicant, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., a Delaware corporation having its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of July 15, 1947, in Docket No. G-910 (6 FPC 777).

(3) The proposed construction and operation of facilities, and the transportation of natural gas in interstate commerce, as hereinbefore described and as more fully described in the applications and exhibits in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(4) The aforesaid proposed construction and operation of facilities and the transportation of natural gas are required by the public convenience and necessity and certificates therefor should be issued as hereinafter ordered and conditioned.

(5) Tennessee and Trunkline are able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(6) Public convenience and necessity require that the certificates issued hereinafter and the rights granted thereunder be conditioned upon Tennessee's and Trunkline's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

The Commission orders:

(A) Certificates of public convenience and necessity are issued to Tennessee and Trunkline in this proceeding authorizing the construction and operation of facilities, and the transportation of natural gas in interstate commerce, as hereinbefore described, all as more fully described in the applications and exhibits filed in these proceedings upon the terms and conditions of this order.

(B) The certificates issued by paragraph (A) above and the rights granted thereunder are conditioned upon Tennessee's and Trunkline's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be constructed and ready for operation within six months of the date of this order as required by Section 157.20(b) of the Regulations.

(D) Tennessee and Trunkline shall make appropriate rate filings in accordance with the provisions of the Commission's Regulations.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Carl E. Bagge and John A. Carver, Jr.

UNITED GAS PIPE LINE COMPANY, DOCKET NO. CP67-28

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued October 6, 1966)

On August 8, 1966, United Gas Pipe Line Company (Applicant) filed in Docket No. CP67-28 an application pursuant to Section 7(c) of the Natural Gas Act, as implemented by Section 157.7(c) of the Regulations under the Act.

for a certificate of public convenience and necessity authorizing the construction during the twelve-month period commencing November 1, 1966, and the operation of natural gas facilities for the sale of natural gas to direct consumers and existing distributors for resale, all as more fully set forth in the application in this proceeding.

Applicant proposes to construct an estimated 40 projects for direct sales of natural gas to consumers located in areas outside the franchise area of any local distributor. Such projects will include tap, metering and regulator facilities and short lateral lines as may be necessary. Further, Applicant proposes to construct an estimated 40 projects for the sale of natural gas to existing distributors at rates on file with the Commission for resale in existing market areas. These latter projects will consist of tap and regulating facilities.

The total cost of facilities proposed under this application will not exceed a maximum of $300,000, which cost will be financed out of current working funds. Total deliveries to any one customer will not exceed a maximum of 100,000 Mcf of natural gas per year and none of the gas delivered pursuant to this order will be used by any distributor or consumer for boiler fuel purposes as defined by subparagraph (9) of Section 157.7(c) of the Commission's Regulations.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on September 29, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, United Gas Pipe Line Company, a Delaware corporation having its principal place of business in Shreveport, Louisiana, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of January 20, 1942, in Docket No. G-216 (3 FPC 3).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are proposed to be used in the transportation and/or sale of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e), (f) and (g) of Section 157.20 of said Regulations.

(6) The authorization hereinafter granted should be limited to construction during the twelve-month period commencing November 1, 1966, and the total expenditures for facilities to be constructed thereunder should be limited to a maximum of $300,000, with the total deliveries to any one customer not to exceed a maximum of 100,000 Mcf of natural gas per year.

(7) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Applicant should submit within 60 days after the expiration of the authorization granted hereinafter, a statement in compliance with Section 157.7(c)(8) of the Commission's Regulations under the Natural Gas Act.

(8) The certificate issued hereinafter should be conditioned upon Applicant's compliance with the provisions of Section 157.7(c)(7) of the aforesaid Regulations.

The Commission orders:

(A) Upon the terms and conditions of this order, a certificate of public convenience and necessity is issued authorizing Applicant, United Gas Pipe Line Company, to construct during the twelve-month period commencing November 1, 1966, the proposed facilities hereinbefore described, as more fully described in the application in this proceeding, and to operate such facilities to sell natural gas to distributors for resale and to direct consumers as hereinafter provided.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e), (f) and (g) of Section 157.20 of said Regulations.

(C) The authorization granted in paragraph (A) above is limited to construction during the twelve-month period commencing November 1, 1966, and the total expenditures for facilities to be constructed thereunder are limited to a maximum of $300,000, with the total deliveries to any one customer limited to a maximum of 100,000 Mcf of natural gas per year.

(D) Applicant shall submit within 60 days after the expiration of the authorization granted by paragraph (A) above a statement in compliance with Section 157.7(c)(8) of the Commission's Regulations under the Natural Gas Act.

(E) The certificate issued by paragraph (A) above is expressly conditioned upon Applicant's compliance with the provisions of Section 157.7(c)(7) of the aforesaid Regulations and, further, the certificate is granted upon the express condition that any interruptible service resulting herefrom shall be curtailed or interrupted to the extent required to meet existing or future contracted maximum delivery obligations of Applicant for firm service to its customers.

(F) This certificate shall not entitle any industrial customers to whom firm deliveries are authorized herein to any priorities or rights to additional gas for meeting any future increases in their requirements at the expense of resale customers desiring to acquire additional gas to meet any future increases in their requirements.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Carl E. Bagge and John A. Carver, Jr.

AREA RATE PROCEEDING, ET AL. (PERMIAN BASIN AREA), DOCKET NO. AR61-1, ET AL.

ORDER ACCEPTING QUALITY STATEMENTS

(Issued October 7, 1966)

The producers listed in the Appendix have submitted new quality statements reflecting agreement with the purchaser, Northern Natural Gas Company

(Northern), on the applicable price adjustments for treating, dehydration and compression for sales of less than pipeline quality gas in the Permian Basin area. Northern and these producers were unable previously to reach agreement on such adjustments. The areas of disagreement have been resolved by computing treating, dehydration and compression costs on the basis of a 100 percent capacity factor, in lieu of 90 percent as permitted by order issued June 13, 1966, 35 FPC 960, in the above-entitled proceedings. The methods utilized to compute such costs are the same as those approved in the June 13 order. The quality statements also reflect elimination of proposed upward price adjustments for gas delivered in excess of 500 psig and for Btu content between 1,000 and 1,050.

The quality statements listed in the Appendix conform with the requirements of Opinion Nos. 468 and 468-A, 34 FPC 159, 1068. We shall therefore accept them.

The Commission orders:

The quality statements listed in the Appendix are accepted.

APPENDIX

Producer	Rate schedule No.	Supplement No.
Pan American Petroleum Corp	120	11
	123	15
Phillips Petroleum Co.:		
(Andrews Plant)	18	40
(Puckett-Devonian)	18	41
(Spraberry Plant)	18	42
	59	12
	306	4
	381	2
	387	4
Texaco Inc	16	6
Union Texas Petroleum, a Division of Allied Chemical Corp.	18	10

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Carl E. Bagge and John A. Carver, Jr.

GEORGIA POWER COMPANY, DOCKET NOS. E-7099, E-7193

ORDER ACCEPTING IN PART FOR FILING RATE SCHEDULE SUPPLEMENTS TENDERED IN COMPLIANCE WITH OPINION NO. 487

(Issued October 7, 1966)

By letter dated June 24, 1966, and rate schedule supplements received from June 29, 1966 to July 14, 1966, Georgia Power Company (Georgia Power), Atlanta, Georgia, submitted for filing as rate schedule supplements proposed revisions to its rate schedules for service to 50 Georgia municipalities. Georgia Power states that the tendered supplements are submitted in compliance with the Commission's order of March 30, 1966, Opinion No. 487, *Georgia Power Company*, 35 FPC 436. The litigation that culminated in Commission Opinion No. 487 was limited to two provisions of Georgia Power's present rate schedules for service to 50 municipal customers: a resale load ceiling provision and a resale credit provision.

The Commission in Opinion No. 487 found that these provisions are "unjust, unreasonable and unduly discriminatory within the meaning of Sections 205 and 206 of the Federal Power Act and are therefore unlawful".

Accordingly, the Commission ordered the following remedy:

> (A) Georgia Power shall, within 75 days of the date of issuance of this order, tender for filing with the Commission, in conformity with Section 205 of the Federal Power Act and Part 35 of the Commission's Regulations thereunder, and satisfactory to the Commission, supplements to its rate schedules for wholesale service to each of its 50 municipal customers referred to herein. Such rate schedule supplements shall contain no unlawful resale load ceiling provisions or credit provisions of any kind, but insofar as possible, shall be designed to provide approximately the same revenues to Georgia Power for the first 12 months following the date in which this opinion is issued as would have been received if the rate provisions herein disapproved were in effect for that period, and shall provide, insofar as possible, that each customer during such period shall pay approximately the same as the customer would have paid during such period under the presently existing rate schedule (p. 440).

On May 26, 1966, 35 FPC 818, the Commission in Opinion No. 487-A denied rehearing of its earlier opinion. By order of June 10, 1966, 35 FPC 954, the Commission extended by 15 days its time limit for filing rate schedule supplements. On June 24, 1966, the Court of Appeals, Fifth Circuit, denied Georgia Power's request for a stay of Commission Opinion No. 487 pending judicial review (*Georgia Power Company* v. *F.P.C.*, CA5 #23753, unreported).

The supplements to rate schedules tendered for each of Georgia Power's 50 municipal customers are identical. They include a change in rate form eliminating the resale credit provision but maintaining the same revenue level from these customers as the present rate schedules. The proposed filing also deletes the load ceiling provisions found by the Commission to be unlawful. To this extent, the proffered filing conforms with the Commission's order.

No adverse comment on these portions of Georgia Power's tendered rate schedule supplements has been received from any party to the proceeding. The Commission finds that the above revisions are satisfactory in meeting the full requirements of ordering paragraph (A) of its March 30, 1966 order. These portions of Georgia Power's tendered rate schedule supplements are therefore accepted for filing. Since the accepted portion of Georgia Power's tendered filing is only a part of a larger filing, the Commission includes herein as Appendix A reproduction of the parts of the tendered rate schedule supplements that have been accepted for filing at this time. Pursuant to Section 35.18 of the Regulations under the Federal Power Act, the Commission has prefaced Appendix A with the title: "Filed in Compliance with an Order of the Federal Power Commission, Docket Nos. E-7099 and E-7193 Entered 30th Day of March, 1966".

In addition to the parts of the tendered rate schedule supplements described in Appendix A and accepted for filing by the Commission, Georgia Power included provisions in its tendered supplements that go beyond the scope of the Commission's findings and order in Opinion No. 487. Among these additional provisions are availability and applicability definitions for Georgia Power's rate schedules, a rewording of a presently included "license and/or occupational tax provision," a change in the "Special Notice" provision regarding regulatory powers over the rate schedules, a deletion of a provision providing time limits on municipal water pumping, and finally, the addition of the sentence "neither the Company nor the Customers shall serve or offer to serve any customer at the premises at which such consumer is now or hereafter receiving service from the other unless the Company or the Customer requests the other to do so."

The City of Dalton, Georgia, the Power Section of the Georgia Municipal Association and the American Public Power Association, all interveners in this proceeding, filed comments which, *inter alia*, challenged the attempt of Georgia Power to change contractual provisions unilaterally during the effective terms of existing contracts. These parties also commented substantively on these proposed unilateral changes. We express no opinion on the lawfulness of these provisions under the Federal Power Act nor on the present contractual power of Georgia Power to make the changes at this time, (*Sierra Pacific Power Co.* v. *F.P.C.*, 350 U.S. 348) for it is clear that except for Appendix A the provisions in the supplements are outside the scope of the Commission's findings and order of March 30, 1966. Supplements tendered as a compliance filing cannot be used as a means to insert rate schedule provisions that are neither included in nor contemplated by the findings and order that brought about the compliance filing. Georgia Power may file at any time pursuant to Part 35 of the Commission's Regulations under the Federal Power Act, subject to any contractual limitations, rate schedule changes and additions for the presently filed rate schedules to 50 Georgia municipalities. The Commission will consider Georgia Power's additional provisions of its tendered rate schedule supplements only if filed in accordance with the Commission's Regulations under the Federal Power Act.

One contention remains. By letter of July 9, 1966, the Power Section of Georgia Municipal Association requested that any order accepting for filing the tendered rate schedule supplements be conditioned to include the resale credit provision refund for the last month of billing under the present rate schedules. The Association claims, in effect, that a one month delay exists in the application of the resale credit provision, which entitled the municipalities to an additional credit for the first month under the new rate schedule. To apply the resale credit to the new rate schedule, which has been designed to roll in the rate level effect of the resale credit, would be inappropriate. This request of the municipalities is therefore denied.

The Commission finds:

(1) It is appropriate for purposes of the Federal Power Act and Commission Opinion No. 487, issued March 30, 1966, that the portion of rate schedule supplements tendered by Georgia Power which is reproduced in Appendix A hereof be accepted for filing and that Appendix A be designated in the Commission's files as a supplement to each of Georgia Power's rate schedules for service to its 50 municipal customers, as set forth in Appendix B attached hereto.

(2) It is necessary and appropriate for purposes of the Federal Power Act that the remaining portions of Georgia Power's proffered filings, not included in Appendix A, be rejected.

(3) It is appropriate for purposes of the Federal Power Act that the filing as reflected in Appendix A and listed in Appendix B be given an effective date of July 28, 1966, as requested by Georgia Power.

The Commission orders:

(A) Those portions of Georgia Power's proposed filing reproduced in Appendix A hereof are accepted for filing as supplements to each of Georgia Power's rate schedules on file with this Commission for service to its 50 municipal customers.

(B) A copy of Appendix A shall be attached to each rate schedule listed in Appendix B attached hereto, and shall constitute a supplement to each of those rate schedules in compliance with Opinion No. 487.

(C) The accepted supplements shall be effective on July 28, 1966, with the schedule of charges to apply to all routine August, 1966, billings and thereafter.

(D) The remainder of Georgia Power's proffered filing, not reflected in Appendix A, is hereby rejected.

Commissioner Carver *not participating.*

APPENDIX A

Rate Schedule Supplement

Filed in Compliance with an Order of the Federal Power Commission, Docket Nos. E–7099 and E–7193 Entered 30th Day of March, 1966.

* * * * * * *

The second and third subparagraphs of Section FIRST as it presently exists are deleted in their entirety so that Section FIRST will be constituted as follows:

> FIRST: That for and during the term of five years commencing on the date on which the delivery of electrical energy hereunder is actually begun, which, it is estimated, will be approximately on or about the ___*___ day of _______*_______, 19_*_, and ending on the ___*___ day of _______*_______, 19_*_, the Company agrees to furnish to the Customer, and the Customer agrees to receive from the Company and to use and pay for all electrical energy that shall be required by the Customer for the operation and maintenance of its electrical lighting system and pumping station.
>
> While the Company is ready and willing to deliver electric energy to the Customer as provided in this agreement, the Customer agrees that, without the written consent of the Company, it will not use any other electric service from any other source.

Paragraph FOURTH as it presently exists is deleted in its entirety and the following is substituted in lieu thereof, effective for service furnished after normal July meter readings:

FOURTH: The Customer hereby agrees to pay to the Company, monthly for each month during the term of this contract, and every renewal thereof, in accordance with the following schedule of rates:

$65.00 per delivery point, plus:

First 100 KWH per KW of billing demand	1.50¢ per KWH.
Next 340 KWH per KW of billing demand	.40¢ per KWH.
Over 440 KWH per KW of billing demand	.65¢ per KWH.

Determination of Demand: By measurement of highest 30-minute interval monthly, provided that no demand shall be taken as less than seventy percent (70%) of the highest demand established during any of the immediately preceding twelve months, nor less than the contract minimum, nor less than 75 KW.

Minimum Monthly Charge: The minimum monthly charge shall be $2.00 per KW of billing demand. The terms month and monthly, as herein used, are intended to designate the period between the regular watthour meter readings, which shall be made by the Company approximately monthly.

APPENDIX B

GEORGIA POWER COMPANY

Rate Schedule Designations of Appendix A

Filed: July 14, 1966
Effective: July 28, 1966

Rate schedule designation	*Customer*
Supplement No. 6 to Rate Schedule FPC No. 46.	City of Fitzgerald.
Supplement No. 5 to Rate Schedule FPC No. 56.	City of Moultrie.
Supplement No. 5 to Rate Schedule FPC No. 256.	City of Adel.

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*These dates remain unchanged from existing WR-4 contracts on file with FPC.

Rate schedule designation	*Customer*
Supplement No. 5 to Rate Schedule FPC No. 272.	City of Acworth.
Supplement No. 5 to Rate Schedule FPC No. 278.	City of Albany.
Supplement No. 5 to Rate Schedule FPC No. 279.	Do.
Supplement No. 6 to Rate Schedule FPC No. 280.	Do.
Supplement No. 6 to Rate Schedule FPC No. 281.	Do.
Supplement No. 5 to Rate Schedule FPC No. 284.	City of Barnesville.
Supplement No. 5 to Rate Schedule FPC No. 287.	City of Buford.
Supplement No 5 to Rate Schedule FPC No. 288.	City of Calhoun.
Supplement No. 5 to Rate Schedule FPC No. 296.	Water, Light and Sinking Fund Commission, City of Dalton.
Supplement No. 5 to Rate Schedule FPC No. 298.	Do.
Supplement No. 5 to Rate Schedule FPC No. 299.	City of Doerun.
Supplement No. 6 to Rate Schedule FPC No. 300.	City of Douglas.
Supplement No. 5 to Rate Schedule FPC No. 301.	City of East Point.
Supplement No. 5 to Rate Schedule FPC No. 305.	City of Ellaville.
Supplement No. 5 to Rate Schedule FPC No. 306.	City of Fairburn.
Supplement No. 7 to Rate Schedule FPC No. 308.	Utilities Commission of the City of Fort Valley.
Supplement No. 5 to Rate Schedule FPC No. 309.	Town of Grantville.
Supplement No. 5 to Rate Schedule FPC No. 310.	City of Griffin.
Supplement No. 5 to Rate Schedule FPC No. 311.	City of Hampton.
Supplement No. 5 to Rate Schedule FPC No. 313.	City of Jackson.
Supplement No. 5 to Rate Schedule FPC No. 315.	City of La Grange.
Supplement No. 5 to Rate Schedule FPC No. 316.	City of Lawrenceville.
Supplement No. 5 to Rate Schedule FPC No. 317.	Town of Mansfield.
Supplement No. 5 to Rate Schedule FPC No. 322.	City of Monticello.
Supplement No. 5 to Rate Schedule FPC No. 323.	Newnan Water and Light Commission.
Supplement No. 5 to Rate Schedule FPC No. 324.	Town of Palmetto.

Rate schedule designation	*Customer*
Supplement No. 7 to Rate Schedule FPC No. 325.	The City of Sandersville.
Supplement No. 5 to Rate Schedule FPC No. 326.	City of Sylvania.
Supplement No. 5 to Rate Schedule FPC No. 327.	City of Thomaston.
Supplement No. 5 to Rate Schedule FPC No. 495.	City of Camilla.
Supplement No. 5 to Rate Schedule FPC No. 507.	Board of Lights and Water Works, City of Marietta.
Supplement No. 1 to Rate Schedule FPC No. 523.	City of Brinson.
Supplement No. 5 to Rate Schedule FPC No. 524.	City of Quitman.
Supplement No. 5 to Rate Schedule FPC No. 526.	City of Whigham.
Supplement No. 5 to Rate Schedule FPC No. 538.	City of Thomasville.
Supplement No. 5 to Rate Schedule FPC No. 539.	Do.
Supplement No. 5 to Rate Schedule FPC No. 541.	City of College Park.
Supplement No. 6 to Rate Schedule FPC No. 542.	City of Covington.
Supplement No. 5 to Rate Schedule FPC No. 543.	City of East Point.
Supplement No. 5 to Rate Schedule FPC No. 544.	City of Washington.
Supplement No. 5 to Rate Schedule FPC No. 566.	City of Albany.
Supplement No. 5 to Rate Schedule FPC No. 567.	City of Cartersville.
Supplement No. 5 to Rate Schedule FPC No. 568.	City of College Park.
Supplement No. 5 to Rate Schedule FPC No. 569.	City of East Point.
Supplement No. 5 to Rate Schedule FPC No. 570.	City of La Grange.
Supplement No. 5 to Rate Schedule FPC No. 605.	City of Moultrie.
Supplement No. 5 to Rate Schedule FPC No. 610.	City of East Point.
Supplement No. 5 to Rate Schedule FPC No. 612.	City of Commerce.
Supplement No. 5 to Rate Schedule FPC No. 613.	Do.
Supplement No. 4 to Rate Schedule FPC No. 616.	City of Sylvester.
Supplement No. 4 to Rate Schedule FPC No. 619.	City of Norcross.
Supplement No. 3 to Rate Schedule FPC No. 621.	Water, Light and Sinking Fund Commission, City of Dalton.

Rate schedule designation	*Customer*
Supplement No. 3 to Rate Schedule FPC No. 622.	Water, Light and Sinking Fund Commission, City of Dalton.
Supplement No. 4 to Rate Schedule FPC No. 623.	Board of Lights and Water Works, City of Marietta.
Supplement No. 4 to Rate Schedule FPC No. 625.	City of Monroe.
Supplement No. 3 to Rate Schedule FPC No. 626.	Water, Light and Sinking Fund Commission, City of Dalton.
Supplement No. 4 to Rate Schedule FPC No. 627.	City of LaFayette.
Supplement No. 3 to Rate Schedule FPC No. 634.	City of Thomaston.
Supplement No. 3 to Rate Schedule FPC No. 645.	City of Calhoun.
Supplement No. 3 to Rate Schedule FPC No. 650.	City of Cartersville.
Supplement No. 3 to Rate Schedule FPC No. 651.	Water, Light and Sinking Fund Commission, City of Dalton.
Supplement No. 4 to Rate Schedule FPC No. 660.	City of Elberton.
Supplement No. 3 to Rate Schedule FPC No. 661.	Board of Lights and Water Works, City of Marietta.
Supplement No. 3 to Rate Schedule FPC No. 665.	City of Albany.
Supplement No. 3 to Rate Schedule FPC No. 668.	City of Forsyth.
Supplement No. 4 to Rate Schedule FPC No. 671.	City of Cairo.
Supplement No. 3 to Rate Schedule FPC No. 671.	Do.
Supplement No. 3 to Rate Schedule FPC No. 676.	City of Cartersville.
Supplement No. 3 to Rate Schedule FPC No. 677.	City of Lawrenceville.
Supplement No. 3 to Rate Schedule FPC No. 684.	City of Blakely.
Supplement No. 3 to Rate Schedule FPC No. 685.	Do.
Supplement No. 3 to Rate Schedule FPC No. 686.	City of West Point.
Supplement No. 3 to Rate Schedule FPC No. 698.	Board of Lights and Water Works, City of Marietta.
Supplement No. 3 to Rate Schedule FPC No. 699.	Do.
Supplement No. 3 to Rate Schedule FPC No. 700.	Do.
Supplement No. 3 to Rate Schedule FPC No. 702.	City of Hogansville.
Supplement No. 3 to Rate Schedule FPC No. 708.	Water, Lights and Sinking Fund Commission, City of Dalton.
Supplement No. 4 to Rate Schedule FPC No. 709.	Town of Braselton.

Rate schedule designation	*Customer*
Supplement No. 3 to Rate Schedule FPC No. 711.	City of Thomasville.
Supplement No. 3 to Rate Schedule FPC No. 713.	City of Fitzgerald-Fitzgerald Water, Light and Bond Commission.
Supplement No. 3 to Rate Schedule FPC No. 714.	Board of Lights and Water Works, City of Marietta.
Supplement No. 3 to Rate Schedule FPC No. 715.	Newnan Water and Light Commission.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Carl E. Bagge and John A. Carver, Jr.

NATURAL GAS PIPELINE COMPANY OF AMERICA, DOCKET NO. CP66-422

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued October 7, 1966)

On June 21, 1966, Natural Gas Pipeline Company of America (Applicant) filed in Docket No. CP66-422 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition and operation of the facilities of Chicago District Pipeline Company (Chicago District), all as more fully set forth in the application.

The facilities of Chicago District proposed to be acquired by Applicant are as follows:

Transmission Lines

(1) A total of 1.28 miles of 24-inch and 36-inch pipelines between Applicant's metering station near Joliet and the "Junction Tee" of the Crawford and Calumet pipelines of Chicago District, in and through Will County, Illinois,

(2) Dual pipelines consisting of 35.24 miles of 24-inch pipeline and 35.44 miles of 30-inch and 36-inch pipeline and 31.28 miles of 24-inch pipeline paralleling and partially looping the above mentioned pipelines, between said "Junction Tee" and the city limits of Chicago, in and through Will, DuPage and Cook Counties, Illinois,

(3) 84.89 miles of dual 24-inch pipelines between said "Junction Tee" and the city limits of Chicago, in and through Will and Cook Counties, Illinois,

(4) 50.70 miles of 36-inch pipeline between Applicant's metering and regulating station near Minooka, Illinois, and the city limits of Chicago, in and through Will and Cook Counties, Illinois,

(5) 12.09 miles of 30-inch and 14.36 miles of 36-inch pipeline between Applicant's metering and regulating station near Streamwood, Illinois, and the city limits of Chicago, in and through Cook County, Illinois,

(6) A total of 8.57 miles of lateral pipelines, varying in sizes from 12-inch to 30-inch pipeline, located in Cook County, Illinois, and

(7) Leasehold interests in certain pipelines and other facilities located within the City of Chicago and operated by Chicago District under lease agreements with The Peoples Gas Light and Coke Company (Peoples Gas).

Metering and Regulating Facilities

A total of 37 metering and/or regulating stations and appurtenant facilities located at various points on Chicago District's pipeline system.

These facilities are used solely for the transportation of natural gas for the account of Chicago District's three customers, Peoples Gas, Northern Illinois Gas Company (Northern Illinois) and Northern Indiana Public Service Company (NIPSCO). Chicago District receives gas for the account of the above customers from Applicant at points near Streamwood, Joliet and Manooka, Illinois, and from Midwestern Gas Transmission Company (Midwestern) near the village of Channahon, Illinois. Such gas is transported and delivered to the three customers at various points in the Chicago metropolitan area.

As of March 31, 1966, the plant in service was recorded on the books of Chicago District at $35,360,716, with accumulated provision for depreciation, depletion and amortization of $13,202,544, or a net book of value of $22,158,172. Against this property, the company had $15,280,000 bonds outstanding in the hands of the public and a net worth of $6,587,649. The plant is presently being depreciated at a rate of 3.1 percent annually for both book and tax purposes.

Peoples Gas owns all outstanding common stock of Chicago District and Applicant. It will authorize the sale and transfer of all assets of Chicago District to Applicant in exchange for common stock of Applicant and the assumption of all debts and liabilities, including bonds, of Chicago District. The aggregate stated value of Applicant's shares will be equal to the net assets, less earned surplus, of Chicago District after due allowance for debts and liabilities assumed.

Chicago District's transportation rate to its three customers for delivery of gas sold to those companies by Applicant and Midwestern is determined monthly in accordance with a cost of service formula which specifies a 6.25 percent annual return on net investment and straight line depreciation rates including 3.1 percent on transmission plant.

After the acquisition, Applicant proposes to continue to charge the three customers for the service provided by the Chicago District facilities by means of a rate schedule setting out a monthly transportation charge based on a cost of service determination for the year 1967. On the first of each calendar year, beginning in 1968, the annual charge to each customer will be reduced by a fixed amount to reflect the decreased return and associated income taxes due to reduction in rate base resulting from annual increase in accumulated provisions for depreciation. Each customer agrees to pay Applicant the following annual tharge for that portion of 1966 and/or 1967 which shall remain after the proposed cariff goes into effect:

	Dollars	Percent
Northern Illinois	966,789	18.76
NIPSCO	1,495,535	29.02
Peoples Gas	2,691,138	52.22
Total	5,153,462	100.00

In succeeding years the above percentages will be applied to the total charge to determine the charge to each customer. These percentages are based upon actual relative billings to each customer for the year ended March 31, 1966.

The proposed annual charge of $5,153,462 is based upon actual costs and billings for 1965, adjusted for known changes through 1967.

The proposed method of billing Chicago District's costs among its customers will result in stabilization of cost to each customer and will encourage fuller use of the presently available capacity of the facilities.

As stated by Applicant, consummation of the acquisition will permit corporate simplification and attainment of economies relating to elimination of one board of directors; elimination of separate reports, audits, payrolls, supply records and reports to regulatory agencies; and combined financial requirements of both companies resulting in lower interests costs than would be available to Chicago District as a separate entity due to the higher rating of debt securities of Applicant.

On July 18, 1966, Chicago District filed a petition for leave to intervene in support of the instant application. On July 25, 1966, Peoples Gas, Midwestern and NIPSCO also filed petitions for leave to intervene in the instant proceeding, Peoples Gas filing in support of the application and both NIPSCO and Midwestern filing in order to protect their respective rights in the event the instant application became the subject of formal hearing procedure. No other petition to intervene, notice of intervention or protest has been filed herein.

At a hearing held on October 6, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Natural Gas Pipeline Company of America, a Delaware corporation having its principal place of business in Chicago, Illinois, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of October 13, 1942, in Docket No. G–235 (3 FPC 830).

(2) The proposed acquisition and operation of facilities by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid acquisition and operation of facilities by Applicant are required by the public convenience and necessity, and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (b), (d), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, Natural Gas Pipeline Company of America, authorizing the acquisition and operation of facilities and transportation and sale of natural gas hereinbefore described, as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (d), (e) and (f) of Section 157.20 of such Regulations.

(C) The facilities hereby authorized to be acquired shall be so acquired and operated in a manner consistent with the subject proposal, as provided by paragraph (b) of Section 157.20 of the Regulations under the Natural Gas Act, within 1 year from the date on which this order issues.

(D) The order issued by paragraph (A) above is without prejudice to a review of acquisition cost in any future rate proceeding involving Applicant.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

IDAHO POWER COMPANY, DOCKET NO. E–7307

SUPPLEMENTAL ORDER AUTHORIZING ISSUANCE OF FIRST MORTGAGE BONDS

(Issued October 11, 1966)

By order issued September 30, 1966, 36 FPC 704, in the above-entitled matter, the Commission authorized Idaho Power Company, (Applicant), to issue and sell at competitive bidding $30,000,000, principal amount of First Mortgage Bonds, due 1996, subject among others, to the provisions set forth in paragraph (B) of that order as follows:

(B) The proposed issuance and sale of Bonds at competitive bidding shall not be consummated until:

(i) Applicant shall have amended its application pursuant to the requirements of Section 34.2(g) of the Commission's Regulations under the Federal Power Act relating to compliance with competitive bidding requirements, and Section 34.2(h)(1) of those Regulations relating to affiliation, and shall have either filed such amendments or shall have mailed them and advised the Commission by telephone and telegraph, as contemplated in Section 34.9 of the Regulations.

(ii) The Commission, by further order, shall have approved the price to be received by Applicant for the proposed issuance of Bonds and the interest rate thereof.

Applicant, on October 11, 1966, filed an amendment, pursuant to the requirements of the aforementioned Commission order, setting forth, among other things, that it proposes to accept as providing the lowest annual cost of money to it, the bid of Salomon Brothers & Hutzler; Equitable Securities Corporation; Eastman Dillon, Union Securities & Company, to purchase the proposed issuance of $30,000,000, principal amount of Bonds, for the price of 100.031% of principal amount, with an interest rate of 6⅛%.

The Commission finds:

(1) Applicant has satisfactorily complied with the requirements of paragraph (B) of the Commission's order issued September 30, 1966, in the above docket, and under the bid it proposes to accept for the Bonds, the price to be received by Applicant therefor and the interest rate thereof are reasonable.

(2) The proposed issuance and sale of Bonds, as hereinafter authorized, will be for a lawful object, within the corporate purposes of the Applicant and compatible with the public interest, which is appropriate for and consistent with the proper performance by the Applicant of service as a public utility and which will not impair its ability to perform that service, and is reasonably appropriate for such purposes.

The Commission orders:

(A) The price to be received by Applicant for the proposed Bonds and the interest rate thereof under the bid referred to above, are approved as reasonable.

(B) The proposed issuance and sale of Bonds referred to above upon the terms and conditions and for the purposes specified in the application, as supplemented by the amendment referred to above, are authorized, subject only to the provisions of paragraphs (A), (C), (D) and (E) of the Commission's order issued September 30, 1966, in the above docket.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Carl E. Bagge and John A. Carver, Jr.

LAND WITHDRAWN IN PROJECT NO. 233, DOCKET NO. DA-1039-CALIFORNIA, E. J. BROWN

ORDER DENYING APPLICATION UNDER SECTION 24 OF THE FEDERAL POWER ACT

(Issued October 11, 1966)

Application was filed by E. J. Brown (Applicant) of Rodeo, California, seeking a determination under Section 24 of the Federal Power Act for the purpose of restoring the following-described lands of the United States withdrawn for power purposes:

Mount Diablo Meridian, California

T. 37 N., R. 3 E., Sec. 27: lot 2 (34.51 acres)

Applicant seeks restoration of the land for lode and placer mining entry.

The land lies within the boundary of the Shasta National Forest and is withdrawn pursuant to the filing on July 14, 1921 of an application for preliminary permit under the Federal Power Act for Project No. 233, which is currently under license to Pacific Gas and Electric Company. Project No. 233, known as the Pit River Project, consists of four existing units designated as Pit River Nos. 1, 3, 4 and 5, and one proposed unit designated as Pit River No. 2. Lot 2 is located on the right bank of Lake Britton, a reservoir for the Pit River No. 3 Unit of the project, which presently inundates a portion of the land.

The proposed use of the land for mining purposes is incompatible with the use of the land for the Pit River project. The land involved has considerable public recreational potential which could be developed without interfering with its power value. Lands around Lake Britton available for public recreational use are limited and existing recreational areas are over-burdened. To relieve this situation, the U.S. Forest Service has provided temporary toilets and picnic tables on the subject land to handle the overflow use by the public of other lands in the area of the Pit River project, and the Forest Service plans additional non-power conflicting recreational development of the subject land.

The Commission finds:

The subject land is valuable for power purposes.

The Commission orders:

The aforesaid application is hereby denied.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Carl E. Bagge and John A. Carver, Jr.

TENNESSEE GAS PIPELINE COMPANY, A DIVISION OF TENNECO INC. AND TRANSCONTINENTAL GAS PIPE LINE CORPORATION, DOCKET NO. CP67-35

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued October 11, 1966)

On August 17, 1966, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), and Transcontinental Gas Pipe Line Corporation (Transco), (Applicants) filed in Docket No. CP67-35 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas by means of existing interconnections, and deliveries to customers receiving service from both Tennessee and Transco, all as more fully set forth in the application.

Applicants specifically propose to exchange natural gas (1) at the point of interconnection between Transco's 36-inch line and Tennessee's Delta-Portland Line at Transco's Mile Post 746.08 and Tennessee's Mile Post MLV 538 — 1 + 1.50 miles near Heidelberg, Jasper County, Mississippi, (2) at the point of interconnection between Transco's 30-inch line and Tennessee's South Louisiana 20-inch line at Transco's Mile Post 489.73 and Tennessee's Mile Post MLV 506 — 1 + 0.97 miles in Section 28, T6S-R5W, Allen Parish, Louisiana; (3) at the point of interconnection between Transco's 24-inch line and Tennessee's 24-inch line near Riverdale, Bergen County, New Jersey and (4) through dispatching arrangements between Tennessee and Transco to make deliveries to common customers[1] for the account of one for the other in the Pennsylvania-New Jersey-New York area.

Tennessee and Transco proposed by letter agreement dated June 1, 1966, to supersede and cancel their letter agreement dated February 17, 1962[2], which provides for the delivery and exchange of natural gas at points (1) and (2) and to substitute therefor the above-described letter agreement dated June 1, 1966. Points (3) and (4) referred to have been added under the new exchange agreement of June 1, 1966, in order to expand the ability of either pipeline to assist the other in the event of unforeseeable operating problems and/or emergencies on either of the pipeline systems.[3] No additional facilities are required.

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[1] Brooklyn Union Gas Company, Consolidated Edison Company, Consolidated Gas Supply Corp., Public Service Electric and Gas Co., Long Island Lighting Company, The Manufacturers Light and Heat Company, Pennsylvania Gas and Water Company and United Natural Gas Company.

[2] Presently on file with the Commission as Rate Schedule X-10 of Tennessee's Tariff, Fourth Revised Volume No. 2, and as Rate Schedule X-23 of Transco's Tariff, Original Volume No. 2.

[3] Tennessee and Transco have heretofore been authorized to make emergency deliveries of natural gas at point (1) by Commission order issued in Docket No. G-17037 on April 14, 1959, 21 FPC 507, and at point (2) by Commission order issued in Docket No. CP63-112 on February 15, 1963, 29 FPC 318. Point (3) is the point of delivery established in the transportation agreement between Transco and Tennessee dated November 25, 1955, and authorized by Opinion No. 279 in *Iroquois Gas Corporation, et al.*, Docket No. G-2310, *et al.*, issued December 29, 1954, 13 FPC 492. Said transportation agreement is on file with the Commission as Rate Schedule X-15 of Transco's Tariff, Original Volume No. 2. The names of the joint customers through which the proposed exchange service could be effectuated at the present time are set forth in [1] above.

Transco and Tennessee state that executed copies of the exchange agreement proposed herein will be filed by each company upon issuance of the requested certificate authorization.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on October 6, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits submitted in support of the authorization sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, Transcontinental Gas Pipe Line Corporation, a Delaware corporation having its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of May 29, 1948, in Docket No. G-704 (7 FPC 24).

(2) Applicant, Tennessee Gas Pipeline Company, a Delaware corporation having its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of July 12, 1947, in Docket No. G-910 (6 FPC 777).

(3) The proposed exchange and delivery of natural gas between Transco and Tennessee, the operation of facilities, and the transportation of natural gas in interstate commerce, as hereinbefore described and as more fully described in the application and exhibits in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(4) The aforesaid proposed exchange and delivery of natural gas, operation of facilities and transportation of natural gas are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Transco and Tennessee are able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that Transco and Tennessee shall amend their respective FPC Rate Schedules to include the new delivery points in accordance with the applicable Commission Regulations.

(7) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a) and (e) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to the Applicants in this proceeding, jointly, authorizing the exchange and delivery of natural gas as hereinbefore described, and the operation of facilities for the transportation of natural gas in interstate commerce, as hereinbefore described and as more fully described in the joint application and exhibits in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a) and (e) of Section 157.20 of such Regulations.

(C) The service authorized shall commence as provided by paragraph (b) of Section 157.20 of the aforesaid Regulations within 3 months of the date on which this order issues.

(D) Transco and Tennessee shall file amended rate schedules to their respective FPC Gas Tariffs reflecting the service authorized herein, in accordance with the Commission's Regulations, within 30 days of the issuance of this order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

GULF STATES UTILITIES COMPANY, DOCKET NO. E-7304

ORDER AUTHORIZING ACQUISITION OF FACILITIES

(Issued October 13, 1966)

Gulf States Utilities Company (Applicant) filed an application with the Federal Power Commission on July 29, 1966, seeking an order pursuant to Section 203 of the Federal Power Act authorizing the acquisition of a 69 kv electric transmission line from the City of Caldwell, Texas (City).

Applicant is incorporated under the laws of the State of Texas and is qualified to do business in the State of Louisiana with its principal place of business at Beaumont, Texas and is engaged principally in the business of generating, transmitting, distributing and selling electric energy in southeastern Texas and south central Louisiana.

The electric transmission facilities to be acquired comprise a 69 kv electric transmission line approximately 22.6 miles in length located in Brazos and Burleson Counties, Texas. The line is being and has been used for the transmission of electric power to the City at a terminal pole within the City and for the sale of electric power and wholesale to the City. Applicant will use the line for the same purpose. The Applicant proposes to pay a cash consideration of $85,000 for the transmission facilities. The original cost depreciated of the facilities is estimated at $101,381.

The total acquisition cost of $85,000 will be $16,381 under the depreciated original cost of $101,381. A credit acquisition adjustment of $16,381 will be created on the books of the Applicant which Applicant proposes to eliminate by a transfer to accumulated provision for depreciation.

Acquisition of the line will enable Applicant to serve the City in accordance with its standard Rate Schedules 423 and 423A which provide for it to own facilities to the point of delivery within the City. The 69 kv line will also be used by Applicant to firm up its distribution system since the line passes through its territory.

Written notice of the application has been given to the Texas Railroad Commission and to the Louisiana Public Service Commission and the Governors of those States. Notice was also published in the Federal Register on August 13, 1966 (31 F.R. 10863), stating that any person desiring to be heard or to make any protest with reference to said application should on or before August 25, 1966, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No protest or petition or request to be heard in opposition to the granting of the application has been received.

The Commission finds:

(1) Applicant, a corporation, is a public utility within the meaning of Section 203 of the Federal Power Act, subject to the jurisdiction of the Commission as heretofore described and set forth in the Commission's order issued December 20, 1962, *Gulf States Utilities Company*, Docket No. E-7074 (28 FPC 1077).

(2) By the proposed transaction, Applicant will merge or consolidate its facilities subject to the jurisdiction of the Commission with those of the City, another person, within the meaning and subject to the requirements of Section 203 of the Federal Power Act.

(3) The proposed acquisition of facilities by Applicant, as described above, upon the terms and conditions set forth in the application, and subject to the provisions of this order will be consistent with the public interest as expressed in Section 203 of the Federal Power Act.

(4) The period of public notice given in this matter is reasonable.

The Commission orders:

(A) The proposed acquisition of facilities by Applicant all as described above, is authorized and approved upon the terms and conditions and for the purposes set forth in the application subject to the provisions of this order.

(B) Applicant shall record the proposed transaction herein authorized and the facilities and properties referred to above as provided in the Commission's Uniform System of Accounts Prescribed for Public Utilities and Licensees.

(C) This authorization shall expire unless the transaction herein authorized and approved is consummated within 90 days from the date of issuance of this order.

(D) The foregoing authorization is without prejudice to the authority of this Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates or determination of cost, or any matter whatsoever now pending or which may come before this Commission or any other regulatory body and nothing herein shall be construed as an acquiescence by this Commission in any estimate or determination of cost or any valuation of property claimed or asserted.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

ILLINOIS POWER COMPANY, DOCKET NO. E-7302

ORDER AUTHORIZING PURCHASE OF ELECTRIC FACILITIES

(Issued October 13, 1966)

Illinois Power Company (Applicant) filed an application on July 22, 1966, with the Federal Power Commission seeking authority pursuant to Section 203 of the Federal Power Act to acquire certain electric facilities from the Village of Fithian, Illinois (Village).

Applicant is incorporated under the laws of the State of Illinois with its principal place of business at Decatur, Illinois and is engaged in the generation, transmission, distribution, and sale of electric energy in 49 counties in the State of Illinois.

The Village is a municipal corporation under the laws of the State of Illinois and is engaged in the distribution of electric energy to approximately 213 customers in the Village of Fithian, Vermilion County, Illinois. Presently the Village purchases at wholesale its entire electric energy requirements for its system from the Applicant.

The facilities to be acquired consist of all of the electric distribution and street lighting facilities of the Village including all equipment and supplies held or owned by the Village in connection with the operation and maintenance of its system. After the acquisition, Applicant will operate this system in the place of the Village. According to the application the purchase price for the system and property to be acquired is $130,000, of which $5,000 is to be paid at the closing of the purchase and the remainder of the purchase price, with interest at 4½% per annum on the unpaid balance, is to be paid in twenty-five annual installments. Applicant estimates that the aggregate original cost of facilities in service including materials and supplies is $40,168.

The Applicant's standard rates in effect in near-by communities will be put into effect in Fithian. One hundred seventy-nine of the 188 residential customers will receive annual decreases ranging from $0.06 to $87.95, for a total decrease of $3,800. Six of 25 commercial customers will receive annual decreases ranging from $0.44 to $31.41, for a total decrease of $42. Nine residential customers will pay annual increases ranging from $0.27 to $6.55, for a total increase of $14. Nineteen commercial customers will pay annual increases ranging from $0.12 to $75.49, for a total increase of $406. The net annual change in rates for both classes of customers will be a decrease of $3,422. Applicant represents that the transfer is consistent with the public interest because after the transfer of the facilities, service will be improved by correction of low voltage and overload conditions, and Fithian will have a new source of local tax revenue.

Written notice of the application has been given to the Illinois Commerce Commission and to the Governor of that State. Notice was also published in the Federal Register on August 6, 1966 (31 F.R. 10589), stating that any person desiring to be heard or to make any protest with reference to said application should on or before August 25, 1966, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No protest or petition or request to be heard in opposition to the granting of the application has been received.

The Commission finds:

(1) Applicant, a corporation, is a public utility within the meaning of Section 203 of the Federal Power Act, subject to the jurisdiction of the Commission as heretofore described and set forth in the Commission's order issued July 15, 1966, *Illinois Power Company*, Docket No. E-7282, 36 FPC 59).

(2) By the proposed transaction, Applicant will merge or consolidate its facilities subject to the jurisdiction of the Commission with those of Fithian, another person, within the meaning and subject to the requirements of Section 203 of the Federal Power Act.

(3) The proposed acquisition of facilities by Applicant, as described above, upon the terms and conditions set forth in the application, and subject to the provisions of this order will be consistent with the public interest as expressed in Section 203 of the Federal Power Act.

The Commission orders:

(A) The proposed acquisition of facilities by Applicant all as described above, is authorized and approved upon the terms and conditions and for the purposes set forth in the application subject to the provisions of this order.

(B) Applicant shall record the proposed transaction herein authorized and the facilities and properties referred to above as provided in the Commission's Uniform System of Accounts Prescribed for Public Utilities and Licensees. Any acquisition adjustment created by the transaction shall be eliminated by a debit to Account 435, Miscellaneous Debits to Surplus.

(C) This authorization shall expire unless the transaction herein authorized and approved is consummated within 90 days from the date of issuance of this order.

(D) The foregoing authorization is without prejudice to the authority of this Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates or determination of cost, or any matter whatsoever now pending or which may come before this Commission or any other regulatory body and nothing herein shall be construed as an acquiescence by this Commission in any estimate or determination of cost or any valuation of property claimed or asserted.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

THE MONTANA POWER COMPANY, DOCKET NO. E-7301

ORDER AUTHORIZING ACQUISITION OF FACILITIES

(Issued October 13, 1966)

The Montana Power Company (Applicant), filed an application on July 8, 1966 with the Federal Power Commission seeking an order pursuant to Section 203 of the Federal Power Act authorizing it to acquire from the National Park Service, United States Department of Interior (Park Service) the electric distribution system located in the Mammoth Hot Springs area of Yellowstone National Park in the State of Wyoming.

Applicant is incorporated under the laws of the State of Montana and is qualified to do business in the States of Montana and Wyoming with its principal place of business at Butte, Montana and is engaged in the generation of electric energy in Montana and in the transmission, distribution and sale of electric energy in Montana and Yellowstone National Park in Wyoming.

According to the application the facilities to be sold to the Applicant primarily consist of over-head and underground primary and secondary lines in the Mammoth Hot Springs area between Applicant's substation and the weatherhead, meter, or main breaker at the point of use. These facilities are presently devoted by the Park Service to the sale and distribution of electric energy and will continue to be so utilized by the Applicant with service to approximately 13 accounts of Park Service operations, 107 accounts for National Park Service employee residences, and approximately 19 accounts for the installations of Yellowstone National Park Concessioners operating in the Mammoth Hot Springs area. The purchase price to be paid by Applicant is $175,580.80 which amount is the estimated original cost of the facilities less accumulated provision for depreciation. Applicant represents that this purchase price was derived by negotiations between the representatives of the Park Service and officers of the Applicant.

According to the Applicant the transfer of these facilities will fulfill a policy of the Park Service to obtain commercial utility services which are economically feasible and which will permit the Park Service to discontinue operation of its hydroelectric generating plant at Mammoth. All lands affected by the transfer are National Park lands and the Park Service will grant necessary rights-of-way pursuant to its agreement with the Applicant.

Applicant and Park Service have agreed that Applicant will charge for its electric service in accordance with its rate schedules for similar service in Montana. Park Service charges for electric service to the 107 residential consumers in the Mammoth area is now included in the lump sum "quarters rental" which includes a charge for all utilities as well as housing charges. The "quarters rental" will be adjusted according to a formula based on the electric energy consumption in similar housing in a number of Montana cities. The adjustment is estimated to be about $13 per month per residence.

Written notice of the application has been given to the Montana Board of Railroad Commissioners, the Wyoming Public Service Commission and to the Governor of each of those States. Notice was also published in the Federal Register on July 26, 1966 (31 F.R. 10086), stating that any person desiring to be heard or to make any protest with reference to said application should on or before August 15, 1966, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on July 29, 1966, the Wyoming Public Service Commission advised this Commission that it had no representations to make in this proceeding. No protest or petition or request to be heard in opposition to the granting of the application has been received.

The Commission finds:

(1) Applicant, a corporation, owns and operates facilities for the transmission and sale at wholesale of electric energy which is generated in the States of Montana, Idaho, Washington and Wyoming and consumed outside the State in which it is generated, all of which facilities are in addition to, and do not include, facilities used for the generation of electric energy or facilities used in local distribution or solely for the transmission of electric energy consumed wholly by the transmitter. Applicant, therefore, is a public utility within the meaning of that term as used in Section 203 of the Federal Power Act.

(2) By the proposed transaction, Applicant will merge or consolidate its facilities subject to the jurisdiction of the Commission with those of the Park Service, another person, within the meaning and subject to the requirements of Section 203 of the Federal Power Act.

(3) The proposed acquisition of facilities by Applicant, as described above, upon the terms and conditions set forth in the application, and subject to the provisions of this order will be consistent with the public interest as expressed in Section 203 of the Federal Power Act.

The Commission orders:

(A) The proposed acquisition of facilities by Applicant all as described above, is authorized and approved upon the terms and conditions and for the purposes set forth in the application subject to the provisions of this order.

(B) Applicant shall record the proposed transaction herein authorized and the facilities and properties referred to above as provided in the Commission's Uniform System of Accounts Prescribed for Public Utilities and Licensees.

(C) This authorization shall expire unless the transaction herein authorized and approved is consummated within 90 days from the date of issuance of this order.

(D) The foregoing authorization is without prejudice to the authority of this Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates or determination of cost, or any matter whatsoever now pending or which may come before this Commission or any other regulatory body and nothing herein shall be construed as an acquiescence by this Commission in any estimate or determination of cost or any valuation of property claimed or asserted.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

NORTHERN INDIANA PUBLIC SERVICE COMPANY, DOCKET NO. E-7303

ORDER AUTHORIZING ACQUISITION OF FACILITIES

(Issued October 13, 1966)

Northern Indiana Public Service Company (Applicant) filed an application on July 29, 1966 with the Federal Power Commission seeking authorization under Section 203 of the Federal Power Act to acquire electric utility facilities located within the Kingsbury Ordnance Plant, La Porte County, Indiana, from the United States Government acting by and through the General Services Administration (GSA).

Applicant is incorporated under the laws of the State of Indiana and authorized to do business in that state with its principal place of business at Hammond, Indiana and is engaged in the generation, transmission, distribution and sale of electric energy in 21 counties in northern Indiana.

The facilities to be acquired comprise the electric distribution system built by the Government during World War II to supply electric energy to the various defense facilities within the Kingsbury Ordnance Plant. Much of the land formerly used and occupied by the Government for its Ordnance plant has been sold to Kingsbury Industrial and Development Corporation (Kingsbury Corporation). At the time of the purchase by Applicant of the distribution system, the Government was not rendering any electric service in this area. However, the Kingsbury Corporation was purchasing electric energy at wholesale from Applicant and, with the consent of the GSA has been using the distribution system to supply energy to industrial customers within the Ordnance Plant area. Applicant proposes to operate such facilities as part of its interconnected system.

As set forth in an Offer to Purchase which has been accepted by GSA, the Applicant will pay $100,000 for the facilities. The facilities have an estimated original cost of $519,872.80, and an estimated accumulated provision for depreciation of $367,848.00, for an estimated depreciated original cost of $152,024.80. The consideration of $100,000 will create a credit acquisition adjustment of $52,024.80, which Applicant proposes to dispose of by a transfer to accumulated provision for depreciation.

The new customers will be charged rates which are the same as those in the Applicant's surrounding service area. The Applicant expects that the acquisition will increase its operating revenues by about $47,000 a year and its net income by about $3,300 a year.

Written notice of the application has been given to the Indiana Public Service Commission and to the Governor of that State. Notice was also published in the Federal Register on August 13, 1966 (31 F.R. 10865), stating that any person desiring to be heard or to make any protest with reference to said application should on or before August 25, 1966, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No protest or petition or request to be heard in opposition to the granting of the application has been received.

The Commission finds:

(1) Applicant, a corporation, is a public utility within the meaning of Section 203 of the Federal Power Act, subject to the jurisdiction of the Commission as heretofore described and set forth in the Commission's order issued July 29, 1966, *Northern Indiana Public Service Company*, Docket No. E-7296 (36 FPC 330).

(2) By the proposed transaction, Applicant will merge or consolidate its facilities subject to the jurisdiction of the Commission with those of the United States government, another person, within the meaning and subject to the requirements of Section 203 of the Federal Power Act.

(3) The proposed acquisition of facilities by Applicant, as described above, upon the terms and conditions set forth in the application, and subject to the provisions of this order will be consistent with the public interest as expressed in Section 203 of the Federal Power Act.

(4) The period of public notice given in this matter is reasonable.

The Commission orders:

(A) The proposed acquisition of facilities by Applicant all as described above, is authorized and approved upon the terms and conditions and for the purposes set forth in the application subject to the provisions of this order.

(B) Applicant shall record the proposed transaction herein authorized and the facilities and properties referred to above as provided in the Commission's Uniform System of Accounts Prescribed for Public Utilities and Licensees.

(C) This authorization shall expire unless the transaction herein authorized and approved is consummated within 90 days from the date of issuance of this order.

(D) The foregoing authorization is without prejudice to the authority of this Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates or determination of cost, or any matter whatsoever now pending or which may come before this Commission or any other regulatory body and nothing herein shall be construed as an acquiescence by this Commission in any estimate or determination of cost or any valuation of property claimed or asserted.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., and Carl E. Bagge.

MISCELLANEOUS AMENDMENTS TO F.P.C. FORM NO. 1; REPORT FORM PRESCRIBED FOR CLASS A AND CLASS B ELECTRIC UTILITIES AND OTHERS SUBJECT TO THE FEDERAL POWER ACT, DOCKET NO. R-284

ORDER NO. 311-B

AMENDING ANNUAL REPORT F.P.C. FORM NO. 1

(Issued October 13, 1966)*

The two amendments to Annual Report F.P.C. Form No. 1 here being considered are among those proposed in the notice instituting this proceeding[1], but action thereon was deferred in our Order No. 311, herein, which adopted all of the other amendments that had also been proposed in that notice.[2] Only two comments on those particular proposals, *i.e.*, the one to amend the schedule (page 102) "Control Over Respondent", and the other which proposed to delete the schedule (page 302), "Income From Merchandising, Jobbing, and Contract Work", were received.

The first would require the reporting of the names and businesses of companies associated, through common control, with the respondent. We find, however, that the information is sufficiently available from other sources and that, therefore, the proposed amendment to this schedule (p. 102) is unnecessary.

Although two state commissions[3] objected to the proposed deletion of the schedule on page 302 for reporting "Income From Merchandising, Jobbing and Contract Work", we have now been informed either that the objection has been withdrawn or that the information can be obtained by the states from other sources. The schedule is, therefore, being deleted as proposed.

Since the action taken in Order No. 311, together with the two proposals with which we are here concerned completes our consideration of all the proposals made in this proceeding, it will be concluded upon the issuance of the order herein.

The Commission finds:

(1) Deletion from Annual Report F.P.C. Form No. 1 of the schedule on page 302 thereof is necessary and appropriate for the administration of the Federal Power Act.

(2) It is in the public interest to take no further action on the proposal to amend the schedule "Control Over Respondent."

The Commission, acting pursuant to the authority of the Federal Power Act, as set out in Order No. 311 heretofore issued herein, *orders:*

(A) Effective for the reporting year 1966 and thereafter, Annual Report FPC Form No. 1, prescribed by § 141.1(a), Subchapter D, Chapter I, Title 18 of the Code of Federal Regulations, is revised by deleting therefrom the schedule on page 302 thereof entitled "Income From Merchandising, Jobbing, and Contract Work (Accounts * * *)".

(B) Paragraph (d) of the said § 141.1 is revised by deleting therefrom the schedule title "Income From Merchandising, Jobbing, and Contract Work."

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*Published in the Federal Register on October 21, 1966 (31 F.R. 13593).

[1] Notice of Proposed Rulemaking, issued September 21, 1965, and published in the Federal Register on Sept. 28, 1965, 30 F.R. 12360.

[2] Order No. 311, issued December 8, 1965, 34 FPC 1437, 30 F.R. 15465.

[3] Public Service Commission of the District of Columbia and the Commonwealth of Virginia State Corporation Commission.

[Sec. 309, 49 Stat. 858; 16 U.S.C. 825*h*]

(C) The revisions here adopted shall be effective upon the issuance of this order.

(D) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

TRANSWESTERN PIPELINE COMPANY, DOCKET NO. RP67–8 AND EL PASO NATURAL GAS COMPANY, DOCKET NO. RP67–9

ORDER CONDITIONALLY GRANTING REQUESTS FOR EXTENSION OF TIME

(Issued October 13, 1966)

El Paso Natural Gas Company (El Paso), on September 29, 1966, and Transwestern Pipeline Company on October 10, 1966, filed requests in their respective dockets for additional time to comply with the filing requirements of our order to show cause and instituting proceedings on flow-through of liberalized depreciation tax deductions, issued on August 30, 1966, 36 FPC 558. El Paso asks that the time in which it is to comply be extended to January 1, 1967, while Transwestern requests an extension to December 1, 1966.

It appears that a nominal extension may be warranted. However, under present circumstances*, an extension beyond that here allowed should be granted only on condition that the companies agree that any rate reductions determined appropriate in these proceedings will be made effective as of January 1, 1967, or as of the date the first phase of service authorized in Opinion No. 500, 36 FPC 176, commences, whichever is earlier.

The Commission orders:

The time in which El Paso and Transwestern shall comply with the requirements of the order issued in these proceedings on August 30, 1966, is hereby extended to November 1, 1966, *Provided, however*, that those companies may request further extension if filed together with a written statement of agreement that any rate reduction found appropriate in these proceedings will become effective as of January 1, 1967, or as of the date of initiation of the first phase of the service authorized in Opinion No. 500, whichever is earlier.

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*Denial of certiorari on October 10, 1966 by the Supreme Court in *Alabama-Tennessee Natural Gas Company* v. *F.P.C.* No. 286 Oct. Term, 1966.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

AMERADA PETROLEUM CORPORATION*, DOCKET NO. CI67–66, ET AL.

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND ACCEPTING FPC GAS RATE SCHEDULES FOR FILING

(Issued October 14, 1966)

Each Applicant herein has filed an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas in interstate commerce to Panhandle Eastern

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*Other Applicants listed herein, *infra*, p. 752.

Pipe Line Company from the South Peek Field, Ellis County, Oklahoma, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Concurrently with their certificate applications Applicants have submitted their related contracts as FPC gas rate schedules. All sales certificated herein will be made at rates equal to the ceiling rates established by the Commission's Statement of General Policy No. 61-1, as amended.

Concurrently herewith an order is being issued amending the order issuing a certificate of public convenience and necessity to Panhandle Eastern Pipe Line Company in Docket No. CP66-228 by authorizing the construction and operation of facilities to receive gas from Applicants, *infra*, p. 760.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the applications has been received.

At a hearing held on October 12, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Each Applicant herein is engaged in the sale of natural gas in interstate commerce subject to the jurisdiction of the Commission and is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications in this proceeding, will be made in interstate commerce subject to the jurisdiction of the Commission; and such sales by Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The sales of natural gas by Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity, and certificates therefor should be issued as hereinafter ordered and conditioned.

The Commission orders:

(A) Certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing sales by Applicants of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the applications in this proceeding.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as Applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of Section 4 of the Natural Gas Act or of Part 154 or Part 157 of the Regulations thereunder and is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against Applicants. Further, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts involved. Nor shall the grant of the certificates aforesaid for service to the particular customer involved imply approval of all of the terms of said contracts, particularly as to the cessation of service upon termination of said contracts as provided by paragraph (b) of Section 7 of the Natural Gas Act. Nor shall the grant of the certificates aforesaid be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(D) No increase in rate shall be filed prior to July 1, 1967, at any price which would exceed the ceiling prescribed for the given area by paragraph (d) of the Commission's Statement of General Policy No. 61-1, as amended.

(E) The related contracts submitted by Applicants are accepted for filing as FPC gas rate schedules to be effective on the dates of initial delivery and are designated as follows:

Docket No. and filing date	Applicant	Description and date of instrument	FPC gas rate schedule No.
CI67-66, 7-18-66	Amerada Petroleum Corp	Contract, 6-16-66	138
CI67-79, 7-22-66	Tenneco Oil Co	Contract, 6-27-66	207
CI67-119, 8-2-66	Pioneer Production Corp	Contract, 7-1-66	33
CI67-152, 8-10-66	Sun Oil Co. (Mid-Continent Division)	Contract, 7-20-66	208
CI67-205, 8-22-66	Dalco Oil Co	Contract, 7-12-66	3
CI67-224, 8-26-66	Midwest Oil Corp	Contract, 7-12-66	42
CI67-252, 9-2-66	Redfern Development Corp	Contract, 6-30-66	2

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

ARKANSAS LOUISIANA GAS COMPANY AND NATURAL GAS PIPELINE COMPANY OF AMERICA, DOCKET NO. CP67-41

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued October 14, 1966)

On August 22, 1966, Arkansas Louisiana Gas Company (Applicant) filed in Docket No. CP67-41 an application pursuant to Sections 7(a) and 7(c) of the Natural Gas Act for an order of the Commission directing the Natural Gas Pipeline Company of America (Respondent) to establish physical connection of its transportation facilities with the facilities proposed to be constructed by Applicant and to sell and deliver to Applicant volumes of natural gas for resale and distribution in the Town of Douglassville, Texas, and adjacent areas in Cass County, Texas, and for a certificate of public convenience and necessity, all as more fully set forth in the application.

Applicant proposes to construct and operate a distribution system for the resale of natural gas in the Town of Douglassville, Texas, along with a feeder distribution line extending north approximately 3½-miles from a tap on Respondent's transportation facilities to Applicant's Douglassville system.

Estimated peak day and annual volumes required by Applicant for the Town of Douglassville, Texas, were submitted at 14.9 psia pressure base. These estimates, converted to the 14.65 psia measurement pressure base of Respondent are:

	Peak day demand (Mcf)	Annual requirements (Mcf)
First year	170	10,487
Second year	177	10,903
Third year	183	11,224

Applicant estimates the total cost of construction of the distribution system to be $33,885.

On September 9, 1966, Respondent filed an answer to the application in the proceeding stating it would be able and willing to render the requested service. Applicant was granted a franchise by the City of Douglassville, Texas, on August 9, 1966.

Due notice of the filing of the subject application and opportunity for hearing thereon have been given by publication in the Federal Register on September 2, 1966 (31 F.R. 11627). No protest, petition to intervene, notice of intervention or request for hearing has been filed in this proceeding.

At a hearing held on October 12, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits submitted in support of the authorization, and upon consideration of the record,

The Commission finds:

(1) Natural Gas Pipeline Company of America, a Delaware corporation having its principal place of business in Chicago, Illinois, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order issued November 7, 1958, in Docket No. G–9666 (20 FPC 694).

(2) Applicant, Arkansas Louisiana Gas Company, a Delaware corporation having its principal place of business in Shreveport, Louisiana, is legally authorized to engage in the local distribution of natural gas to the public within the meaning of Section 7(a) of the Natural Gas Act.

(3) It is necessary and desirable in the public interest to direct Respondent to establish physical connection of its transmission facilities with the facilities proposed to be constructed and operated by Applicant, and to sell and deliver to Applicant under a service agreement to be executed by Applicant with Respondent in accordance with the Commission's Regulations up to 183 Mcf per day of natural gas for distribution and resale as hereinbefore described and as more fully described in the application in this proceeding.

(4) Applicant should be prepared to receive natural gas from Respondent for distribution in Douglassville, Texas, and environs, within one year from the date of the issuance of this order.

(5) The requirement that Respondent serve Applicant, as requested, will not place an undue burden upon it nor impair its ability to render adequate service to its existing customers.

(6) The proposed construction and operation of facilities by Applicant as hereinbefore described, and as more fully described in the application and exhibits in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(7) The aforesaid proposed construction and operation of facilities are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(8) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(9) Public convenience and necessity require that the certificate issued

hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (e), (f) and (g) of Section 157.20 of such Regulations.

The Commission orders:

(A) Natural Gas Pipeline Company of America, Respondent, is directed to establish physical connection of its facilities with the facilities proposed to be constructed and operated by Applicant, as herein described, and to sell and deliver up to 183 Mcf (measured at 14.65 psia) of natural gas daily to Applicant under a service agreement to be executed by Applicant with Respondent in accordance with the Commission's Regulations for distribution and resale as hereinbefore described and as more fully described in the application in the proceeding. Such service shall be rendered pursuant to Respondent's presently filed appropriate rate schedule.

(B) Respondent shall report to the Commission in writing the date of commencement of service to Applicant within 10 days thereof.

(C) Applicant shall be prepared to receive service as directed herein within one year from the date of issuance of this order.

(D) A certificate of public convenience and necessity is issued to the Applicant in this proceeding, authorizing the construction and operation of facilities, as more fully described in the application and exhibits in this proceeding, subject to the jurisdiction of the Commission, upon the terms and conditions of this order.

(E) The certificate issued by paragraph (D) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (e), (f) and (g) of Section 157.20 of such Regulations.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

LONE STAR GAS COMPANY, LONE STAR GATHERING COMPANY, AND UNITED GAS PIPE LINE COMPANY, DOCKET NO. CP65-118[1]; LONE STAR GATHERING COMPANY, CP62-179; UNITED GAS PIPE LINE COMPANY, CP62-193

ORDER GRANTING REHEARING, SPECIFYING PROCEDURE, AND FIXING DATE FOR REHEARING

(Issued October 14, 1966)

On September 21, 1966, the Public Service Commission of the State of New York (PSC) filed an application for rehearing of our Opinion No. 505 and accompanying order issued August 22, 1966, 36 FPC 497, in the above-entitled proceeding. PSC's application for rehearing compares facts in the record with data taken from the applicants' Forms No. 2 (and therefore not available at the time of the hearing) and raises several important questions regarding which, under the circumstances, the record cannot afford adequate answers.

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[1] Pursuant to the notice and consolidation of applications issued March 16, 1965, the parties should henceforth file future pleadings under lead Docket No. CP65-118.

We believe that the application for rehearing should be granted to afford the applicants an opportunity to present additional evidence which will provide a full and complete record on which to base our ultimate conclusions regarding the interrelated proposals in the applications involved in this proceeding.

The incomplete state of the record seems to have resulted in large part from a stipulation agreed to by the parties and staff. Although it was stipulated that the only contested issue involved in the proceeding related to the need of United Gas Pipe Line Company (United) for the gas it seeks authorization to acquire from Lone Star Gathering Company (Gathering), and while this was the only issue to which United addressed its direct testimony at the hearing, the arguments made in PSC's brief on exceptions and application for rehearing have challenged such matters as United's cost of service, as opposed to Gathering's cost of service, for operation of the facilities which United proposes to acquire from Gathering. We would ordinarily require the parties to adhere to the stipulation, but in this instance, at the commencement of the hearing, PSC's counsel indicated that even if United showed a need for gas in the absolute sense, PSC was contesting United's need for the gas at the price it proposed to pay. Thus, from the beginning of this contested proceeding PSC has really been challenging not only the adequacy of United's markets to support the acquisition of Gathering's gas but also the economic feasibility of applicants' proposals, whereas the applicants have relied on their prepared testimony as if it constituted full answers to PSC's contentions even though their testimony was served prior to the commencement of hearing and was written under an apparently erroneous and overly narrow interpretation of the stipulation to the effect that PSC was questioning only United's physical need for Gathering's gas.

Under the circumstances described above, it is not surprising that the record is either silent or affords only partial answers to many of the questions raised by PSC. In the interest of securing a complete record, the stipulation should not govern in any way the presentation of evidence on rehearing and no party or staff should any longer consider itself bound by the stipulation. The applicants are free to augment the record to the extent they believe is essential to support their applications, but we shall hereinafter specify the areas as to which PSC has raised questions and as to which we believe additional evidence should be presented on rehearing.

The first issue raised in PSC's application for rehearing is that United's markets have not been growing as rapidly as we indicated in Opinion No. 505. PSC contends that United's Form No. 2 for 1965 shows that United's sales decreased in 1965, as compared with 1964, by 143 billion cubic feet and that this reveals a negative growth rate for United's markets over the period from 1959 to 1965. On rehearing United should present full market data showing its total sales over a period of time great enough to demonstrate a trend in growth or decline of its markets, together with testimony explaining why its sales declined sharply during 1965 and what it estimates its future market requirements will be.

PSC also contends that United's gas reserves at the end of 1964 were in excess of 23 trillion cubic feet and that only three other pipeline companies in the United States have reserves with as high a deliverability life as United. PSC claims that United should not be allowed to acquire high-priced gas reserves when it already has more than ample reserves to meet its market requirements for at least 17 years. On rehearing United should present evidence showing the number of years it can meet its customers' requirements with the existing reserves available to its system. In presenting its evidence as to deliverability and reserves, United should also explain why its reserves have declined by about 4.1 trillion cubic feet within the last two years even though its total sales have amounted to only 2.7 trillion cubic feet during the same period of time. United should state whether it has ever before paid as much as 21.5 cents per Mcf for gas purchased in South Texas, and if not, whether it could use, at less cost than 21.5 cents per Mcf, alternate supplies from other sources to meet its customers' requirements. United should introduce flow diagrams and maps to demonstrate the flow on its system of gas obtained from Gathering as compared with the flow of any alternate supplies which could be substituted for Gathering's gas.

The next contention PSC makes is that the cost to United of acquiring gas from Gathering cannot be determined from the record. The record shows Gathering's estimated cost of service on the facilities it proposes to sell to United and United's witness stated that United's costs would not "* * * be any higher or any lower than what it is costing" Gathering. However, PSC claims that Gathering's unit cost of service had been computed from the estimates in the record on the assumption that Gathering would deliver annually about 15.2 billion cubic feet to United, whereas Gathering's Form No. 2 for 1965 shows that Gathering delivered only 12.5 billion cubic feet to United. PSC argues that the cost of service will not vary appreciably from one year to another and that the unexplained reduction in the volume of Gathering's deliveries to United shows an alarming increase in the unit cost of service. In fact, PSC points out that United's estimated fixed costs would apparently amount to 4.6 cents per Mcf without any allowance for operating and maintenance expenses. If this unit cost of 4.6 cents per Mcf is added to the unit cost of purchased gas for 1963, amounting to about 17.6 cents per Mcf, the total cost to United would be 22.2 cents per Mcf, or seven tenths of one cent per Mcf more than it is now costing United to purchase the gas directly from Gathering.

While it is obvious that United's estimated fixed costs are greater than Gathering's fixed costs because of United's having used a larger rate of depreciation and a much greater rate of return than Gathering, the record does not contain specific data concerning United's estimated cost of service for operation of the facilities which it proposes to acquire from Gathering. Consequently, on rehearing United should present full and complete data showing its best estimate of all costs it would incur if it were to be permitted to acquire Gathering's facilities. United's costs should be computed utilizing its authorized rate of return of 6½ percent instead of the 6¾ percent rate of return used in the record. United should calculate its income tax allowance on the basis of its up-to-date capitalization ratio and average interest rate on its long-term debt. Additionally, United should support its use of a depreciation rate of about 5.76 percent in lieu of the 4.41 percent depreciation rate employed by Gathering in its Form No. 2 for 1965 if United believes that Gatherings' depreciation rate is lower than it should be.

Up-to-date cost-of-service data are required concerning Gathering's present operations in order to determine whether it is sound for PSC to conclude in its application for rehearing that Gathering's charge to United will necessarily remain at 21.5 cents per Mcf and therefore never be equal to or exceed costs comprised of United's estimated cost of service on the facilities to be acquired from Gathering plus the cost of purchased gas. In this connection we note from Gathering's Form No. 2 for 1965 that Gathering's rate of return on the facilities it seeks to sell to United was less than 4 percent.

PSC also claims that the record should be reopened in order that Gathering can explain why its peak-day delivery in the 1965–66 heating season declined to 49,755 Mcf from the much higher peak-day delivery of 65,224 Mcf for the

1964–65 heating season. While United's witness stated that South Texas reserves have a history of fast depletion, the record does not show that the reserves attached to Gathering's system were expected to become depleted as fast as is implied from a comparison of Gathering's Forms No. 2 for 1964 and 1965. Therefore, on rehearing Gathering should present evidence showing what has caused the rapid decline in peak-day and annual deliveries to United and what effect this sharp reduction in deliveries will have on the unit cost of service.

PSC also objects to our failure "* * * to afford protection to the consumer from the unprecedentedly onerous 1:6200 take-or-pay provisions" in the contract under which Gathering delivers gas to United. Gathering and United should present evidence on rehearing in support of their use of take-or-pay provisions requiring United to take one Mcf of gas for each 6,200 Mcf of reserves dedicated to Gathering's system.

Finally, PSC alleges that the Commission erred in asserting that United's cost of service on the facilities it seeks to acquire from Gathering would be offset by the reduction in United's cost of service on the facilities which United proposes to sell to Gathering's parent, Lone Star Gas Company (Lone Star). This issue makes it necessary for Lone Star, Gathering and United to present evidence on rehearing showing whether United would be willing to sell its facilities to Lone Star if United's application to acquire Gathering's facilities were to be denied. United should also introduce evidence showing its present cost of service for operating the facilities it seeks to sell to Lone Star as compared with its estimated cost of supplying gas to the customers it expects to continue serving from those facilities in the event United is permitted to abandon and sell such facilities to Lone Star. In conjunction with this evidence United should show whether the cost of the gas it expects to purchase from Lone Star for resale to its customers, to be served from the facilities it seeks to abandon, is greater than its existing costs for serving those same customers.

The Commission finds:

The application for rehearing filed on September 21, 1966, by the Public Service Commission of the State of New York for rehearing of Opinion No. 505 and the accompanying order issued August 22, 1966, should be granted as hereinafter ordered for the purpose of supplementing the record in this consolidated proceeding so as to clarify the facts surrounding the questions raised by the application for rehearing.

The Commission orders:

(A) The application for rehearing filed September 21, 1966, by the New York Public Service Commission is granted.

(B) Pursuant to the authority contained in, and subject to the authority conferred upon the Federal Power Commission by the Natural Gas Act, including particularly Sections 7, 15, 16, and 19, and the Commission's Rules and Regulations under that Act, a public hearing shall be held, before a duly designated presiding examiner, commencing December 6, 1966, at 10:00 a.m. (EST), in a hearing room of the Federal Power Commission, 441 G Street, N.W., Washington, D.C. 20426, concerning the matters raised by the New York Commission's application for rehearing and especially regarding the questions hereinbefore discussed in this order.

(C) The applicants shall serve upon the Examiner, the New York Public Service Commission, and the Commission's staff their supplemental evidence in answer to the questions raised by the New York Commission's application for rehearing on or before November 21, 1966.

(D) Any evidence which the New York Commission or the Commission's staff may wish to file shall be served upon the Examiner and the applicants on or before December 1, 1966.

Commissioner Carver *not participating.*

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

NIAGARA MOHAWK POWER CORPORATION, DOCKET NO. E-6797

ORDER AUTHORIZING TRANSMISSION OF ELECTRIC ENERGY FROM UNITED STATES TO CANADA AND SUPERSEDING PRIOR AUTHORIZATION

(Issued October 14, 1966)

Niagara Mohawk Power Corporation (Niagara Mohawk) incorporated under the laws of the State of New York, with its principal place of business in Syracuse, New York, filed a supplemental application on October 19, 1965 for authorization, pursuant to Section 202(e) of the Federal Power Act, to increase the amount of electric energy presently authorized to be transmitted and exported to Canada pursuant to Commission's order issued May 15, 1958 (19 FPC 693) by means of electric transmission lines and facilities described and authorized in Permits issued in Docket Nos. E-6798, E-6797, E-6631 and E-6632. Under the present authorization applicant is authorized to export up to 300,000,000 kwh annually at a rate not to exceed 280,000 kw. Applicant now seeks to increase this authorization to 1,000,000,000 kwh at a rate not to exceed 1,000,000 kw. No change in the transmission facilities will be made by reason of the increase requested.

The Applicant points out that in December 1958, when a 230 kv tie was established between the St. Lawrence project of Power Authority of the State of New York and the Hydro-Electric Power Commission of Ontario, considerable energy circulated into Applicant's system through its connections with the St. Lawrence project and out of its system through its connection with the Hydro-Electric Power Commission near Niagara Falls. There have been periods when power circulated in the opposite direction. Circulation of energy, in on one tie and out on the other tie, may occur whenever the two ties between the St. Lawrence project and the Niagara area, one via Canada and the other via United States are closed.

An examination of hourly records shows that during a single day energy flows can vary from a large amount "out" to a large amount "in" and that the net flow over 24 hours will not reflect the relative size of the maximums. Applicant states that the requested increase in the amount of energy authorized to be exported is necessary to give it sufficient flexibility to handle the situation without the danger of exceeding the amount authorized by the Commission.

Applicant states that the major portion of the electric energy it proposes to export is on a non-firm basis and can therefore be curtailed at any time. Applicant's interconnection agreement with the Hydro-Electric Commission of Ontario is on file with the Commission as Applicant's Rate Schedule F.P.C. No. 12. The increased amounts of energy will be sold in accordance with the rates set forth in Applicant's FPC Rate Schedules Nos. 12 and 13, on file with the Commission.

Written notice of the application has been given to the New York Public Service Commission and to the Governor of that State. Notice of the application has also been given by publication in the Federal Register on November 9, 1965 (30 F.R. 14124), stating that any person desiring to be heard or to make any protest with reference to the application should, on or before November 26, 1965, file with the Federal Power Commission, Washington, D.C. 20426, a petition or protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No protest or petition or request to be heard in opposition to the granting of the application has been received.

The Commission finds:

The transmission of electric energy from the United States to Canada, as limited herein and as hereinafter authorized, will not impair the sufficiency of electric supply within the United States and will not impede or tend to impede the coordination in the public interest of facilities subject to the jurisdiction of the Commission.

The Commission orders:

(A) Niagara Mohawk hereby is authorized to transmit electric energy from the United States to Canada, in accordance with the terms and conditions set forth in the supplemental application, and subject to the provisions of this order.

(B) The electric energy which Niagara Mohawk is hereby authorized to transmit from the United States to Canada shall be an amount not in excess of 1,000,000,000 kwh per year at a rate not to exceed 1,000,000 kw over facilities covered by the aforementioned Permits issued in Docket Nos. E-6798, E-6797, E-6631 and E-6632, respectively.

(C) Since there may at times be simultaneous imports at one or more of the several interconnections, the amount of electric energy exported shall be computed as the net sum of the kilowatt-hours exported during the hours when the net energy flow is from the United States to Canada. Similarly, the maximum rate of transmission shall be computed as the maximum net sum of the power flows over the several interconnections.

(D) The authorization herein granted may be modified from time to time or terminated upon further order of the Commission, but in no event shall such authorization extend beyond the date of termination or expiration of the Permits referred to in paragraph (B) above.

(E) Niagara Mohawk shall conduct all operations pursuant to the authorization herein granted in accordance with the provisions of the Federal Power Act and pertinent rules, regulations or orders issued by the Commission, and shall file with the Commission any revisions or changes in the agreements between Niagara Mohawk and the purchasers of the energy to be exported, all as now on file with the Commission.

(F) Niagara Mohawk shall install and maintain adequate metering equipment to measure the flow of all energy transmitted from the United States to Canada pursuant to the authority herein granted; shall make, keep, and preserve full and complete records with respect to the movement of such energy; and shall file a report in triplicate annually on or before February 15 showing for each month of the preceding calendar year the kilowatt-hours of energy delivered over the several interconnections as a group, the maximum rate of transmission, and the consideration received therefor. In addition, it shall show separately for each interconnection (except that the Buffalo-Fort Erie Crossing and Rainbow Bridge Crossing may each be considered a single interconnection) the gross monthly kilowatt-hours transmitted in each direction and the maximum rates of such transmission.

(G) This authorization to transmit electric energy from the United States to Canada shall not be transferable or assignable, but shall continue in effect temporarily for a reasonable time thereafter, in the event of the involuntary transfer of facilities used thereunder by operation of law (including such transfers to receivers, trustees, or purchasers under foreclosure or judicial sale) pending the making of an application for permanent authorization and decision thereon, provided notice is promptly given in writing to the Commission, accompanied by a statement that the physical facts relating to sufficiency of supply, rates, and nature of use remain substantially the same as before the transfer.

(H) This authorization shall be without prejudice to the authority of any State or State regulatory commission for the exercise of the lawful authority vested in the State or State regulatory commission over Applicant.

(I) This authorization is without prejudice to the authority of this Commission, or any other regulatory body, with respect to rates, service, accounts, valuation, estimate or determination of cost, or any other matter whatsoever now pending or which may come before this Commission, or other regulatory body, and nothing herein shall be construed as an acquiescence by this Commission in any estimate or determination of cost or any valuation of property claimed or asserted.

(J) The authorization heretofore granted by Commission order issued May 15, 1958, in this docket is hereby superseded.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

PANHANDLE EASTERN PIPE LINE COMPANY, DOCKET NO. CP66–228

ORDER FURTHER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued October 14, 1966)

On August 9, 1966, Panhandle Eastern Pipe Line Company (Petitioner), filed in Docket No. CP66–228 a petition to amend the order issued in said docket on April 29, 1966, 35 FPC 653, and amended on August 2, 1966, 36 FPC 358, by requesting authorization to construct and operate an extension of its pipeline through Ellis County, Oklahoma, all as more fully set forth in the petition to amend.

By the order issued on April 29, 1966, in the instant docket, Petitioner was granted authorization for the construction and operation of a supply pipeline extending from its existing Elk City line a total of approximately 73.3 miles through Dewey and Ellis Counties, Oklahoma, and terminating in Hemphill County, Texas. By the order issued August 2, 1966, Petitioner was granted further authorization for construction and operation of a pipeline extension of approximately 31.7 miles through Ellis and Woodward Counties, Oklahoma, from the previously certificated Hemphill line.

Petitioner specifically requests in the instant petition authorization to construct and operate an extension southward approximately 13.4 miles of 12-inch and 5.4 miles of 8-inch gas supply lateral in Ellis County, Oklahoma, from a point on the Hemphill line, connecting at approximately the midpoint between its origin and Petitioner's existing Western Oklahoma supply line.[1]

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[1] The proposed line will attach new gas supplies from several producers: Amerada Petroleum Corporation; Anderson, Bruce; Beard Oil Company; Dalco Oil Company; El Paso Products Company; Livingston Oil Company; Midwest Oil Corporation; Odessa Natural Gasoline Company; Pioneer Products Corporation; Shell Oil Company; Sun Oil Company, Tenneco Oil Company *supra*, p. 750.

The total estimated cost of the proposed extension is $619,000, which cost will be financed from general funds.

Due notice of the filing of the application to amend and opportunity for hearing thereon have been given by publication in the Federal Register on August 23, 1966 (31 F.R. 11159). No protest, petition to intervene, or notice of intervention has been filed in this proceeding concerning this amendment.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act, and the public convenience and necessity require that the Commission's order issued April 29, 1966, in Docket No. CP66–228 be amended as hereinafter ordered and conditioned.

The Commission orders:

(A) The Commission's order issued April 29, 1966, in Docket No. CP66–228 is amended so as to authorize Petitioner to construct and operate an extension southward approximately 13.4 miles of 12-inch and 5.4 miles of 8-inch gas supply lateral in Ellis County, Oklahoma, from a point on the Hemphill line, connecting at approximately the midpoint between its origin and Petitioner's existing Western Oklahoma supply line.

(B) The amendment authorized by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with applicable Commission Regulations under the Natural Gas Act and particularly the conditions set forth in paragraphs (f) and (g) of Section 157.20 of such Regulations.

(C) In all other respects said order shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

PIPELINE PRODUCTION AREA RATE PROCEEDING, DOCKET NO. RP66–24

ORDER REFERRING APPEAL FOR EXTENSION OF TIME TO PRESIDING EXAMINER

(October 14, 1966)

On September 29, 1966, Staff Counsel filed an Appeal from the rulings of the Presiding Examiner prescribing the procedural dates in this proceeding and denying staff's motion for additional time. It appears from Staff Counsel's appeal that the respondents in this proceeding are to submit data in response to a questionnaire which was worked out among the parties to the proceeding after numerous informal and pre-hearing conferences. It further appears that while Staff Counsel did not meet the date set for submitting the questionnaire and instructions to the respondents, that the need for the extension of time requested is not caused by the failure to meet that date. Rather, the appeal sets forth that after intensive research and review with responsible officials of the Office of Administration of this Commission, Staff Counsel was advised that the processing of the responses to the questionnaire by use of automatic data processing equipment and techniques could not physically be accomplished in less than 147 days. Staff Counsel thus contends that the 42 days allowed by the Examiner for processing and compositing the responses to the questionnaire are wholly inadequate. The time schedule requested by Staff Counsel is thus almost entirely based on the time needed for processing of the responses.

We have been advised that the 147 days is a reasonable estimate of the time required.

Opposition to Staff Counsel's request was filed by the Pipeline Division of the Independent Natural Gas Association of America (INGAA), on October 10, 1966. That opposition does not controvert the allegation of time necessary for processing the questionnaire, but appears to suggest that such activity and preparation of any evidence relating thereto that the parties may desire to present could be accomplished at the same time that the parties would be sitting in hearing on some other phases of the proceeding. We do not believe that the suggestion is feasible.

On October 12, 1966, 13 of the respondents in this proceeding, under the name Pipeline Production Group, filed a joint response and petition requesting, among other things, that the Commission prescribe a rule-making procedure for Phase I of this proceeding. It is not our purpose to act on that petition at this time, since it is our view that other parties to this proceeding should be allowed some time to file answers or comments thereon. It is our further view, however, that the time for filing of such responses should be limited as hereinafter provided.

The Presiding Examiner in this proceeding is fully empowered to exercise his discretion in setting the procedural dates he deems appropriate in line with our expressed desire that a complete evidentiary record be established herein. We believe that he should be given an opportunity to exercise that discretion in the light of the subsequently developed facts regarding processing of the questionnaire. It is not appropriate that we attempt to prescribe a specific time schedule and thus second-guess the Presiding Examiner on the time required for each procedural step in the proceeding. Accordingly, we are referring Staff Counsel's appeal to the Presiding Examiner for his consideration and action thereon.

The Commission orders:

(A) The appeal filed by Staff Counsel on September 29, 1966 is referred to the Presiding Examiner for consideration and action thereon.

(B) Any party to this proceeding desiring to submit comments or answer to the document filed on October 12, 1966, by the aforementioned Pipeline Production Group shall do so on or before October 31, 1966.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

TURNBULL & ZOCH DRILLING CO. (OPERATOR), ET AL., DOCKET NO. G-17960, ET AL. AND TENNECO OIL COMPANY, DOCKET NOS. G-18223, CI60-325

ORDER DENYING MOTIONS FOR RECONSIDERATION OF APPLICATION FOR REHEARING AND EXTENSION OF TIME FOR FILING

(Issued October 14, 1966)*

On July 25, 1966, 36 FPC 164, the Commission issued Opinion No. 499 and order in this proceeding. Timely applications for rehearing were filed by a number of the parties to the proceeding. On August 25, 1966, the thirty-first day after issuance of Opinion No. 499 and order, Tenneco Oil Company (Tenneco) filed an application for rehearing. By order issued September 2, 1966, the Commission granted all applications for rehearing of Opinion No. 499 and order for the purpose of allowing an opportunity to give the arguments set forth therein joint and adequate consideration. By letter dated September 8, 1966, the Acting Secretary of the Commission rejected Tenneco's application for rehearing on the grounds that it was not filed within the time provided by Section 19(a) of the Natural Gas Act. On September 16, 1966, Tenneco moved for reconsideration of its application for rehearing and for an extension of time for filing such application.

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*See order issued January 27, 1967, dismissing application for rehearing, 37 FPC 255.

Section 19(a) of the Natural Gas Act provides that "Any person * * * aggrieved by an order issued by the Commission in a proceeding under this act to which such person * * * is a party may apply for a rehearing within thirty days after the issuance of such order. * * * No proceeding to review any order of the Commission shall be brought by any person unless such person shall have made application to the Commission for a rehearing thereon." "Since the thirty day period is the maximum period prescribed for rehearing by the statute, the Commission has no power to grant any extension of time." *Power Authority of the State of New York*, Project No. 2000, 31 FPC 467, 468 (1964). Tenneco's motion for an extension of time to file such application must therefore be denied, and the Acting Secretary's action in rejecting such application must be held to be correct. The fact that Tenneco's late filing resulted from an honest administrative mistake does not confer upon this Commission the power to relieve the party of the consequences of the error. The fact that no other party objected to the filing of Tenneco's application cannot extend the period provided by the statute.

In the present case, however, the Commission has granted rehearing upon applications timely filed by other parties. We think, once a rehearing has been granted upon application by any party, that all parties to the proceeding may be heard upon such rehearing if they so desire. Tenneco's motion papers included, as Appendix A, a copy of its application for rehearing. This sets forth the facts and arguments which Tenneco wishes to present to the Commission.

The Commission orders:

The motions of Tenneco Oil Company for reconsideration of its application for rehearing and for an extension of time within which to file an application for rehearing of Opinion No. 499 and order are denied.

Commissioner Carver *not participating.*

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

ATLANTIC SEABOARD CORPORATION, DOCKET NO. CP66-390

ORDER AMENDING CERTIFICATE TO EXTEND TIME FOR COMPLIANCE WITH CONDITION AND ISSUING TEMPORARY CERTIFICATE

(Issued October 17, 1966)

On September 20, 1966, 36 FPC 653, the Commission issued an order herein granting a certificate to Atlantic Seaboard Corporation for the use of approximately 1,185 feet of 36-inch O.D. by 0.250-inch wall thickness electric weld, grade X-100 steel pipeline for use as a segment of its transmission line system in Grant County, West Virginia. This certificate was conditioned on approval of the use of this pipe by the ASA B31.8 Code Committee. X-100 pipe conforms to no standards published by the American Standards Association or the American Petroleum Institute. It is made of "quenched and tempered" steel. Tests of the pipe's adequacy and safety have, however, been conducted by the United States Steel Corporation, Atlantic Seaboard, and by the Battelle Memorial Institute of Columbus, Ohio.

Our order of September 20, 1966, stated that in the absence of federal standards, compliance with the safety code used by the industry, the ASA B31.8 code, should be a prerequisite to certification by the Commission under Section 7(c) of the Natural Gas Act.

The Commission interpreted the ASA code to provide a procedure by which such new types of pipe could be qualified for use and the Commission conditioned the certificate on qualification by such procedure. Without such a procedure, new types of pipe could not be used by a pipeline company under operational conditions and still allow the company to comply with the ASA B31.8 code. To permit new developments in pipeline technology (which the Commission encourages), it is essential that there be an appropriate procedure to review safety and adequacy for such new developments and to qualify the products for use.

Sections 811.22 and 811.221 of the ASA B31.8 code provide [emphasis supplied]:

> 811.22 *Important items of a type for which standards or specifications are listed in this Code, such as pipe*, valves and flanges, but which do not conform to standards or specifications listed in this Code (811.1 [b]), *shall be qualified* as described in 811.221 or 811.222.[1]
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> 811.221 By petitioning the Code Committee for approval. If possible, the material shall be identified with a comparable material, and it should be stated that the material will comply with that specification except as noted. Complete information as to chemical composition and physical properties shall be supplied to the Code Committee, and their approval shall be obtained before this material may be used.

On October 11, 1966, Atlantic Seaboard Corporation filed an application for an extension of time to May 1, 1967, to comply with the Commission's condition that the pipe be, in fact, qualified by the ASA Code Committee prior to its use, and for permission to operate the facilities for the interim six months from November 1, 1966, to May 1, 1967. Atlantic Seaboard cited the pipe's prior safe use; the above-mentioned tests of its safety and reliability; and an affidavit of F. W. Batten, Senior Vice President of Columbia Gas System, that X-100 is at least as reliable and safe as X-60 pipe. The application alleges further that if permission is not given by October 15, 1966, it will be necessary to employ a contractor to install X-60 pipe in place of the X-100 pipe; an accompanying affidavit alleges (1) the 10-mile loop of which the X-100 pipe is a part must be in operation by November 1, 1966, to meet winter requirements; (2) the pipe has been hydrostatically tested to 1,225 psig and will not be operated above 750 psig; and (3) that it is located in a remote, mountainous region where even the closest inhabitants would not be in danger in the event of a failure.

The application states that Atlantic Seaboard has petitioned the ASA B31.8 Code Committee for approval under Section 811.221 and that two members of the ASA B31.8 Code Committee have advised Atlantic Seaboard that the ASA B31.8 Code Committee would conclude that the approval required by the Commission is not possible under the ASA Code Committee's present procedures. Atlantic Seaboard states also, on information and belief, that the ASA Code Committee is reconsidering its procedures to provide Code provisions for the qualification of materials and procedures for operational experience. Atlantic Seaboard states its belief that, when such code provisions are enacted, Atlantic Seaboard will receive the approval required by the Commission's order of September 20, 1966, within the six months here sought.

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[1] Section 811.222 is not here relevant as it deals with materials which do not vary materially from a listed specification. "Quenched and tempered" steel does vary materially from any listed specification.

The Commission's Deputy Chief of the Bureau of Natural Gas, a member of the ASA Section 8 of the B31 Code Committee, advises us that he attended the September 23, 1966, meeting of the sectional committee which considered Atlantic Seaboard's petition for qualification and approval of the limited installed section of X–100 pipe. He confirms that the sectional committee concluded that present procedures of the ASA code are inadequate to qualify X–100 pipe for a particular use, such as Atlantic Seaboard's, as contrasted with general usage; that the committee is not yet ready to qualify X–100 pipe for general usage; and that the sectional committee is proceeding with dispatch to recommend a procedure for qualifying new kinds of pipe for particular usage to the parent B31 committee which, it appears, must approve the procedure before it may be invoked.

The vital consideration is that the ASA Code group is moving to initiate procedures for qualifying for use new types of pipe such as X–100 pipe in circumstances such as Atlantic Seaboard's. It is therefore reasonable to extend the time for Atlantic Seaboard to obtain approval from the ASA Code Committee. In light of the belief of Atlantic Seaboard that it will be able to obtain such a determination before May 1, 1967, and their inability under existing code procedure to secure an early determination, the supporting information it offers, including the studies of the Battelle Memorial Institute, and the allegations of the safety and reliability of X–100 pipe, the Commission will grant Atlantic Seaboard's application for an extension of time to comply with this condition of the Commission's order and will authorize use of this X–100 for the 6-month period. Atlantic Seaboard's application requests authorization to operate the segment of X–100 pipe at a pressure of no more than 750 psig and we are so ordering. Of course, as in all temporary certificates, we reserve the right to rescind or modify the temporary certificate as circumstances may require.

The Commission finds:

(1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the certificate of public convenience and necessity issued to Atlantic Seaboard Corporation on September 20, 1966, in Docket No. CP66–390 be amended by extending the time for compliance with condition (B)(1) of such certificate as hereinafter ordered.

(2) Issuance of a temporary certificate, as hereinafter ordered, is necessary to assure maintenance of adequate services.

The Commission orders:

(A) The order of September 20, 1966, is amended to extend to May 1, 1967, time for compliance with condition (B)(1) of said order.

(B) A temporary certificate of public convenience and necessity is issued to Atlantic Seaboard Corporation, to operate approximately 1,185 feet of 36-inch O.D. by 0.250-inch wall thickness electric weld, grade X–100 steel pipeline as a segment of its pipeline system in Grant County, West Virginia until May 1, 1967, subject to the following conditions.

(1) The X–100 pipe shall not be operated at a pressure in excess of 750 psig.

(2) In any rate proceeding, all costs associated with the construction, installation and operation of the X-100 pipe shall not be included in Atlantic Seaboard's rate base until condition (B)(1) of the order of September 20, 1966, is complied with.

(3) Seaboard shall: (a) report immediately, any abnormality the behavior of the grade X-100 line segment; (b) file at monthly intervals from November 1, 1966, progress reports to include, but not be restricted to, operating pressure history, leak survey data, and cathodic protection pipe-to-soil potential survey data on the grade X-100 pipeline. Such reports shall also include a status report on the hydrogen-stress field tests on grade X-100 steel concurrently being carried on by the Battelle Memorial Institute.

(C) In all other respects the Commission's order of September 20, 1966, shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

COLORADO INTERSTATE GAS COMPANY, DOCKET NO. G-9666

ORDER AMENDING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued October 17, 1966)

On August 29, 1966, Colorado Interstate Gas Company (Petitioner) filed in Docket No. G-9666 a petition to amend the order issued in said docket on March 15, 1956, 15 FPC 1228 and amended on February 4, 1965, 33 FPC 173, requesting authorization to increase its firm daily deliveries to Northern Gas Company (Northern) from 200 Mcf to 300 Mcf of natural gas for resale in the Laramie, Wyoming area, all as more fully set forth in the petition to amend.

By the order issued in the instant docket on March 15, 1956, Petitioner was authorized to provide emergency service to Northern for resale in the Laramie area. The order issued on February 4, 1965, authorized Petitioner to change such emergency deliveries to firm and interruptible service. Petitioner has concurrently filed a related service agreement with Northern reflecting the proposed increased obligations. The present service agreement with Northern, under Petitioner's Rate Schedule G-1, provides for firm deliveries of 200 Mcf of natural gas per day with an effective term extending to October 1, 1982. The tendered rate filing under Rate Schedule PR-1[1], increases deliveries to 300 Mcf per day with an effective term extending to September 1, 1986.

The proposed sale will be made using currently authorized delivery points, and no new or expanded facilities will be required.

A comparison of the sales and revenues under the G-1 and PR-1 Rate Schedules indicates a cost reduction to Northern of approximately $800 per year.

After due notice, no protest, petition to intervene or notice of intervention has been filed herein.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the certificate of public convenience and necessity heretofore issued in Docket No. G-9666 be amended as hereinafter ordered.

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[1] This schedule is for partial requirements service to pipeline customers having other sources of supply, and was authorized by the Commission subsequent to authorization herein.

The Commission orders:

(A) The certificate of public convenience and necessity issued to Colorado Interstate Gas Company by the Commission on March 15, 1956, and amended February 4, 1965, is further amended by authorizing an increase in firm daily deliveries to Northern Gas Company from 200 Mcf to 300 Mcf of natural gas, under Rate Schedule PR-1, as hereinbefore described and as more fully described in the petition to amend.

(B) Applicant's concurrently filed revised service agreement reflecting the increased volumes authorized herein is hereby accepted for filing effective as of the date of issuance of this amending order.

(C) In all other respects said certificate shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

CONSOLIDATED GAS SUPPLY CORPORATION, DOCKET NO. CP67-40

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued October 17, 1966)

On August 19, 1966, Consolidated Gas Supply Corporation (Applicant), filed in Docket No. CP67-40 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas at a new delivery point[1] to Iroquois Gas Corporation (Iroquois), an existing customer of Applicant, and the construction and operation of a measuring and regulating station needed therefor, all as more fully set forth in the application.

Applicant states that Iroquois plans to resell and distribute such gas in the Towns of Sheldon and Orangeville, Wyoming County, New York, in an area which does not presently have natural gas service. Applicant further states that the expected market requirements to be served by the proposed delivery point are:

	First year	Second year	Third year
Annual (Mcf)	14,000	21,000	28,000
Peak day (Mcf)	180	270	360

Applicant proposes to tap its 20-inch transmission pipeline in the town of Sheldon, Wyoming County, New York, and to construct and operate a measuring and regulating station for the sale and delivery of gas to Iroquois under Applicant's Rate Schedule ACR-5, in order to supply gas for Iroquois' proposed new market area.

The total estimated cost of Applicant's proposed facilities is $10,866, which cost will be financed from funds on hand.

On August 26, 1966, Consolidated filed an amended service agreement with Iroquois. The new agreement provides for deliveries of gas at the new Johnsonburg Meter Station in addition to existing delivery points, and increases the annual contract volumes from 16,900,000 Mcf to 17,000,000 Mcf or by 100,000 Mcf. The increase in volume is to care for increasing requirements of areas presently served by Iroquois with gas purchased from Consolidated and also includes the requirements of the Johnsonburg Market Area.

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[1] To be known as the Johnsonburg Connection.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on October 12, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought, and upon consideration of the record,

The Commission finds:

(1) Consolidated Gas Supply Corporation, a West Virginia corporation with its principal place of business in Clarksburg, West Virginia, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order issued May 24, 1965, in Docket No. CP65-262 (33 FPC 1047).

(2) The facilities hereinbefore described and as more fully described in the application and exhibits in this proceeding, will be used in the transportation and sale of natural gas in interstate commerce subject to the jurisdiction of the Commission, and the construction and operation thereof and the transportation and sale of natural gas are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed construction and operation of facilities, and transportation and sale of natural gas is required by the public convenience and necessity, and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, Consolidated Gas Supply Corporation, authorizing the construction and operation of facilities and transportation and sale of natural gas, as hereinbefore described and as more fully described in the application in this proceeding, subject to the jurisdiction of the Commission, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be completed and ready as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within 3 months from the date on which this order issues.

(D) Consolidated's amended service agreement with Iroquois is accepted for filing to become effective on the date service to the Johnsonburg Market area commences.

(E) Consolidated shall inform the Commission of the commencement of deliveries from the facilities authorized herein within 10 days of such date.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

EASTERN SHORE NATURAL GAS COMPANY, DOCKET NO. CP67-48

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued October 17, 1966)

On August 30, 1966, Eastern Shore Natural Gas Company (Applicant), filed in Docket No. CP67-48 an application pursuant to Section 7(c) of the Natural Gas Act for authority to increase the level of firm deliveries to certain of its resale customers and to deliver volumes of firm natural gas to a direct industrial customer, all as more fully set forth in the application.

Applicant specifically requests authority to increase the levels of firm deliveries to the following resale customers:

Customer	Currently authorized (Mcf)	Proposed deliveries (Mcf)
Dover Gas Light Co	2,830	3,100
Citizens Gas Co	1,450	1,550
Cambridge Gas Co	550	700
Elkton Gas Service, Division of Pennsylvania and Southern Gas Company	950	1,000
Total	5,780	6,350
Net increase	580Mcf	

In addition, Applicant also seeks authority to deliver 90 Mcf per day of firm gas to International Latex Corporation, a direct industrial customer to which Applicant is currently authorized to sell interruptible gas.

Applicant states that the proposed delivery increases can be made effective without the construction of any new transmission facilities.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on October 12, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits submitted in support of the authorization sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, Eastern Shore Natural Gas Company, a Delaware corporation having its principal place of business in Salisbury, Maryland, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of November 29, 1957, in Docket No. G-12050, *et al.*, (18 FPC 710).

(2) The proposed operation of facilities, transportation and delivery of natural gas to International Latex Corporation, an industrial customer on a firm basis, and sale and delivery of natural gas by Applicant for resale as hereinbefore described, and as more fully described in the application and exhibits in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid operation of facilities, transportation and sale and delivery of natural gas is required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform

the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with Section 155.1 and all other applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(3), (e), (f) and (g) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to the Applicant in this proceeding, authorizing the transportation and delivery of natural gas to International Latex Corporation, an industrial customer on a firm basis, and the sale and delivery of natural gas for resale as hereinbefore described and more fully described in the application and exhibits in this proceeding, subject to the jurisdiction of the Commission, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with Section 155.1 and all other Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (c)(3), (e), (f) and (g) of Section 157.20 of such Regulations.

(C) The services authorized shall be commenced, as provided by paragraph (b) of Section 157.20 of the aforesaid Regulations within 6 months of the date on which this order issues.

(D) The certificate issued shall not entitle the industrial customer to whom firm deliveries are authorized herein to any priorities or rights to additional gas for meeting any future increases in its requirements at the expense of firm resale customers desiring to acquire additional gas to meet any future increases in their requirements.

(E) Eastern Shore Natural Gas Company shall file within 30 days after the issuance of this order appropriate service agreements with the named resale customers executed in accordance with the Commission's Regulations reflecting the increased deliveries authorized herein, and shall notify the Commission of the date of initiation of firm service to International Latex Corporation within 10 days thereof.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

MICHIGAN WISCONSIN PIPE LINE COMPANY, DOCKET NO. CP67-50

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued October 17, 1966)

On September 1, 1966, Michigan Wisconsin Pipe Line Company (Applicant), filed in Docket No. CP67-50 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application.

Applicant seeks authorization for the construction and operation of a sales measuring station to provide a new delivery point for North Central Public Service Company (North Central) on Applicant's Iowa lateral south of Fort

Madison, Iowa. North Central, an existing resale customer of Applicant, has requested Applicant to provide the new delivery point to enable North Central to deliver and sell natural gas to a new plant which Fruehauf Corporation has under construction. Peak day and annual natural gas requirements are estimated at 500 Mcf and 80,000 Mcf, respectively, which North Central proposes to serve initially within the limits of its presently effective service agreement.

The total estimated cost of the proposed facilities is $24,296, which amount will be financed with funds on hand.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on October 12, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, Michigan Wisconsin Pipe Line Company, a Delaware corporation having its principal place of business in Detroit, Michigan, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of November 30, 1946, in Docket No. G-669 (5 FPC 953).

(2) The proposed construction and operation of facilities and sale and delivery of natural gas, as hereinbefore described and as more fully described in the application in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed construction and operation of facilities and sale and delivery of natural gas are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant authorizing the construction and operation of facilities and sale and delivery of natural gas as hereinbefore described and as more fully described in the application in this proceeding, subject to the jurisdiction of the Commission, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be completed and placed in actual operation, as provided by paragraph (b) of Section 157.20 of the aforesaid Regulations within 3 months of the date on which this order issues.

(D) Applicant shall file with the Commission a revised service agreement with North Central covering the new delivery point authorized herein.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

TRANSWESTERN PIPELINE COMPANY, DOCKET NO. CP67-39

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued October 17, 1966)

On August 19, 1966, Transwestern Pipeline Company (Applicant) filed in Docket No. CP67-39 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the installation and operation of certain measuring facilities for the transportation and delivery of natural gas to Duval Corporation (Duval), all as more fully set forth in the application.

Applicant seeks authorization for the installation and operation, for the period ending July 31, 1967, of minor tap, valve and measuring facilities in order to sell and deliver, if available, up to 5,000 Mcf of natural gas per day on an interruptible basis to Duval. Applicant states that the average daily quantity estimated to be required by Duval is 1,500 Mcf of gas, which will be delivered to Duval in Section 589 GC & SF Survey, Pecos County, Texas, as provided in their gas sales agreement.

The total estimated cost of Applicant's proposed facilities is $850, which cost will be borne by Duval and not by Applicant.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on October 12, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization, and upon consideration of the record,

The Commission finds:

(1) Applicant, Transwestern Pipeline Company, a Delaware corporation having its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order issued October 10, 1963, in Docket No. CP63-290 (30 FPC 997).

(2) The proposed installation and operation of facilities and transportation and delivery of natural gas by Applicant, as hereinbefore described and as more fully described in the application and exhibits in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed installation and operation of facilities and transportation and delivery of natural gas are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant authorizing the installation and operation of facilities and the transportation and delivery of up to 5,000 Mcf per day of natural gas by Applicant to Duval as hereinbefore described and as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be completed and placed in actual operation and the transportation of natural gas authorized in paragraph (A) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within 30 days from the date on which this order issues.

(D) The certificate issued is granted upon the express condition that the interruptible service authorized herein shall be curtailed or interrupted to the extent required to meet existing or future contracted maximum delivery obligations of Applicant for firm service to its customers.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Carl E. Bagge and John A. Carver, Jr.

AREA RATE PROCEEDING, ET AL. (PERMIAN BASIN AREA), DOCKET NO. AR61-1, ET AL.

ORDER ACCEPTING QUALITY STATEMENTS

(Issued October 19, 1966)

The producers listed in the Appendix have submitted revised quality statements pertaining to sales of natural gas to El Paso Natural Gas Company (El Paso) and Hunt Oil Company (Hunt) which is processed in the Wilshire Plant in Upton County, Texas. Also listed in the Appendix is the quality statement covering the sale by Hunt under its FPC Gas Rate Schedule No. 31 to El Paso at the Wilshire Plant.

The Wilshire Plant was owned 50 percent by El Paso and 50 percent by Hunt, which was the operator of the plant, until Pecos Company (Pecos), a wholly owned subsidiary of El Paso, purchased effective as of August 1, 1966, Hunt's 50 percent interest in the facilities and properties of the plant and gathering system as well as Hunt's interests in the purchase agreements for gas supplying the plant. Pecos also purchased Hunt's interest in the sales contract with El Paso (on file as Hunt's FPC Gas Rate Schedule No. 31), which relates to Hunt's sale of residue gas at the Wilshire Plant.[1]

As a result of the purchase of Hunt's interest by Pecos, Hunt, El Paso and the producers have now submitted agreed upon quality statements based upon El Paso's average treating, compression and dehydration costs in the Permian Area.[2] The methods utilized to compute such costs are the same as those approved in the order issued June 13, 1966, 35 FPC 960, in the above-entitled proceeding. The quality statements conform with the requirements of Opinion Nos. 468 and 468–A, 34 FPC 159, 1068, and we shall therefore accept them.

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[1] Pecos has filed a certificate application in Docket No. G-11260 to succed to Hunt's interests and has also filed to be made a corespondent in Docket No. RI65-74 which involves sales under Hunt's FPC Gas Rate Schedule No. 31. No action has yet been taken on these matters by the Commission.

[2] After Pecos is certificated to succeed to Hunt's interests, it will adopt Hunt's agreement to the submitted quality statements.

The Commission orders:

The quality statements listed in the Appendix are accepted.

APPENDIX

Producer	Rate schedule No.	Supplement No.	Filing date
Acoma Oil Corp	4	15	8/22/66
Gulf Oil Corp	12	12	8/18/66
	55	7	8/18/66
	225	4	8/18/66
Humble Oil & Refining Co	118	12	8/ 8/66
	144	6	8/ 8/66
	262	7	8/ 8/66
Hunt Industries	3	9	8/ 5/66
	4	7	8/ 5/66
Hunt Oil Co	31	9	4/20/66
	33	14	8/ 5/66
	34	14	8/ 5/66
	36	11	8/ 5/66
H. L. Hunt	15	9	8/ 5/66
	16	9	8/ 5/66
	22	6	8/ 5/66
	27	9	8/ 5/66
	28	8	8/ 5/66
Mobil Oil Corp	19	8	8/23/66
	104	14	8/23/66
	131	5	8/23/66
	144	9	8/23/66
Phillips Petroleum Co	47	6	8/11/66
Joseph E. Seagram & Sons, Inc., d/b/a Texas Pacific Oil Co	20	8	8/12/66
Secure Trusts	3	9	8/ 5/66
	4	9	8/ 5/66
Sinclair Oil & Gas Co	158	7	8/11/66
Skelly Oil Co	113	4	([1])
	132	2	([1])
Standard Oil Co. of Texas	11	7	8/10/66
Sunray DX Oil Co	103	12	8/12/66
	133	6	8/12/66
Texaco Inc	24	13	8/25/66
Union Oil Co. of California	98	13	8/24/66
	111	11	8/24/66
Union Texas Petroleum, a Division of Allied Chemical Corp	13	13	8/25/66
	41	8	8/25/66
Phillips Petroleum Company	309	10	8/11/66

[1] Quality statement for sale to El Paso filed on July 12, 1966. Quality statement for sale to Hunt filed Aug. 10, 1966.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

STATEMENT OF LATERAL LINE POLICY IN RATE SCHEDULES FILED BY NATURAL GAS PIPELINE COMPANIES, DOCKET NO. R–301

ORDER NO. 328

AMENDING § 154.39 OF THE COMMISSION'S REGULATIONS

(Issued October 19, 1966)*

On April 12, 1966, the Commission issued in the above-entitled docket a notice of proposed rulemaking (31 F.R. 5972, April 19, 1966) in which it proposed to amend its regulations under the Natural Gas Act to require each natural gas pipeline company to include in its tariff a statement of its practices and policies in regard to the construction of sales lateral lines to present or prospective customers, both resale and direct. "Such a statement," the notice said, "would specify whether such laterals are to be constructed by the selling pipeline company and, if so, the specific rules or formulas under which the cost of construction will be borne or shared by the customer."

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* Published in the Federal Register on October 25, 1966 (31 F.R. 13720).

Comments were invited from interested persons, to be submitted by May 12, 1966. Responses were submitted by or on behalf of 32 companies.[1]

A substantial number of respondents supported the amendment except to the extent that it would apply to sales laterals to direct customers. They argued that the tariffs filed with the Commission by pipeline companies relate only to sales for resale, and that it would therefore be improper, under the terms of the Natural Gas Act, for the Commission to require the inclusion in such tariffs of statements regarding sales to direct customers. We proposed the amendment in the hope of eliminating, to the extent practicable, any opportunity for unjust discrimination and undue preference among customers where a pipeline company does not follow a consistent policy. We believe, insofar as data relating to a pipeline company's sales lateral arrangements with direct customers may be material in ascertaining the propriety of that company's sales lateral arrangements with resale customers, that it would not be inappropriate to require inclusion in the tariff of a pipeline company's lateral line provision, if any, pertaining to direct customers. On the other hand, because such information is normally available in pipeline certification proceedings, during which sales lateral provisions for both direct and resale customers may be compared, the direct customer provision of the proposed amendment is probably unnecessary. Accordingly, and without expressing any opinion as to its validity, we are striking from the proposed amendment the reference to sales lateral lines to direct customers.

Several respondents argued that the amendment is generally undesirable. One source of objection was the fear that the amendment would render each pipeline company's lateral line arrangements so hopelessly rigid that inherent competitive advantages would be impaired. The Commission neither seeks nor contemplates such a result. The proposed amendment would, by design, require a greater consistency in sales lateral policy than many pipeline companies have heretofore demonstrated. We believe, however, that a clear and accessible declaration of the criteria by which a pipeline company determines to what extent, if at all, it will contribute to lateral line construction is an effective means of assuring the company's customers of equitable treatment. At the same time, we do not expect the proposed requirement to produce the sort of paralysis anticipated by many respondents. A uniform lateral line policy would not require a pipeline company to enter into identical construction agreements with all of its customers. It would require only that each customer receive equitable treatment in the context of its own particular circumstances as compared with those of other customers of the same pipeline company. We are bulwarked in this view by the long-standing success of some of the pipeline companies in adopting and publicizing lateral line construction formulas. See, *e.g.*, *Michigan Wisconsin Pipe Line Co.*, *sub nom. Midwestern Gas Transmission Co., et al.*, 22 FPC 775 (1959), *Kansas-Nebraska Natural Gas Co., Inc.*, 29 FPC 1058 (1963), *Northern Natural Gas Co.*, 22 FPC 164 (1959).

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[1] Algonquin Gas Transmission Company; Central Hudson Gas & Electric Corporation; Cities Service Gas Company; Consolidated Gas Supply Corporation; Columbia Gas System Service Corporation (on behalf of Atlantic Seaboard Corporation, Home Gas Company, Kentucky Gas Transmission Corporation, The Manufacturers Light and Heat Company, The Ohio Fuel Gas Company, and United Fuel Gas Company); East Tennessee Natural Gas Company; Florida Gas Transmission Company; Iowa Public Service Company; Kansas-Nebraska Natural Gas Company, Inc.; Lake Shore Pipe Line Company; Lone Star Gas Company; Midwestern Gas Transmission Company; Minneapolis Gas Company; Mississippi River Transmission Corporation; Mountain Fuel Supply Company; Natural Gas Pipeline Company of America; Northern Illinois Gas Company; Northern Natural Gas Company; Panhandle Eastern Pipe Line Company; Public Service Electric and Gas Company; Southern Natural Gas Company; Tennessee Gas Pipeline Company; Texas Eastern Transmission Corporation; Texas Gas Transmission Corporation; Transcontinental Gas Pipe Line Corporation; Union Gas System, Inc.; and United Gas Pipe Line Company.

Similarly, although the declaration by a pipeline company of a particular lateral line policy will be an element in certification proceedings brought by prospective customers under section 7(a) of the Natural Gas Act, as well as in those brought by pipeline companies themselves under section 7(c), the pipeline company will not be deprived, in 7(a) proceedings, of opportunities heretofore available to show that the certification in question is not in the public interest. The rule does not require a statement of the considerations which might lead a pipeline company voluntarily to provide new or increased service to a customer. Instead, they would be required solely to set forth the basis for the financial obligations they would assume in the event they were authorized or directed to provide such service after proceedings brought under sections 7(c) or 7(a) of the Act respectively. It is not the purpose of the proposed regulation to impose undue burdens upon jurisdictional pipeline companies; it seeks only to reduce the possibility of preferential treatment for certain customers.

We see no merit in the argument that the Natural Gas Act does not empower the Commission to promulgate the regulation in question here, even as it pertains to resale customers. Section 4(b) of the Act proscribes the discrimination between customers with respect to "rates, charges, service, facilities, or in any other respect," and section 4(c) authorizes the Commission to require public disclosure of "the classifications, practices, and regulations affecting * * * rates and charges * * * ." We think this is ample authority for the regulation we propose to adopt in this proceeding.

Finally, the complaint that "sales lateral" is not readily amenable to a precise definition only suggests more strongly the need for the proposed amendment. Whether all pipeline companies adhere to the same definition of sales lateral is not here in issue. We seek only to assure that each company employs the same policy for all of its customers. The definitions adopted, respectively, by the different pipeline companies subject to our regulation may therefore be expected to form an important element in their lateral line policy statements.

Of the respondents who favored the proposed amendment, some urged us to broaden the scope of the instant proceeding to encompass an investigation into the propriety of particular lateral line policies. We do not believe, however, that an inquiry into the merits of the tariff provisions to be filed would be appropriate in this proceeding.

The Commission further finds:

In view of the foregoing, and upon consideration of all relevant matters presented, including the arguments, contentions, suggestions and other views expressed in the comments received, it is necessary and appropriate for the administration of the Natural Gas Act, that the Regulations under the Natural Gas Act be amended as herein provided.

The Commission, acting pursuant to the authority granted by the Natural Gas Act, as amended, particularly sections 4, 5, 7, and 16, thereof (52 Stat. 822, 823, 824, and 830, as amended, 15 U.S.C. §§ 717c, 717d, 717f, and 717o), *orders:*

(A) Section 154.39, Part 154, Subchapter E, Regulations Under the Natural Gas Act, Chapter I of Title 18 of the Code of Federal Regulations, is amended by designating the existing text as paragraph "(a)" and adding a new paragraph. As so amended, the section will read as follows:

§ 154.39 General terms and conditions.

(a) This section shall contain provisions which apply to all or any of the rate schedules and which may more conveniently be arranged in a separate section of the tariff. Subsections and paragraphs shall be numbered for convenient reference.

(b) The general terms and conditions of the tariff shall contain a clear statement of the company's policy with respect to the financing and building of sales lateral pipelines to its resale customers, together with a list of the rate schedules to which the policy is applicable. If it is the company's policy to build or contribute to the financing of such sales laterals, the tariff shall clearly set forth the criteria or formula under which it determines the extent to which it will contribute to the construction. If it is the company's policy not to build or contribute to any sales lateral pipelines, that policy should be clearly set forth.

[Secs. 4, 5, 7, 16, 52 Stat. 822, 823, 824, 830, as amended, 15 U.S.C. 717c, 717d, 717f, 717o]

(B) This amendment herein prescribed shall become effective upon the issuance of this order.

(C) Each natural gas pipeline company having a tariff on file with the Federal Power Commission on the effective date of this order shall file, no later than December 5, 1966 such supplements to the tariff as may be necessary to comply with the provisions of the regulation herein prescribed.

(D) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and John A. Carver, Jr.

EL PASO NATURAL GAS COMPANY, DOCKET NO. RP67-9

ORDER DENYING RECONSIDERATION

(Issued October 24, 1966)

El Paso Natural Gas Company (El Paso), on September 29, 1966, filed a Petition for Rehearing[1] requesting the Commission to terminate the proceedings instituted by our show cause order on flow-through of liberalized depreciation tax deductions, issued August 30, 1966, 36 FPC 558. In support of its petition, El Paso recites a portion of the background of the Commission's determination with respect to its rate of return as determined in Opinion No. 366, 28 FPC 688. It refers to the fact that in computing that rate of return, the Commission included a return of 1.5% on its deferred tax reserve. It also notes that in the order issued December 4, 1963, 30 FPC 1400, approving a settlement agreement in the dockets to which that rate of return determination was applicable[3], the Commission did not condition that rate settlement on the final outcome of *Alabama-Tennessee Natural Gas Company*, Opinion No. 417, 31 FPC 208. El Paso then contends that in the light of the recited facts a "mere" allegation that it has a growing plant "even if true" does not constitute a prima facie case that the principles of the *Alabama-Tennessee* case should be applied to it.

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[1] An application for rehearing of a interlocutory order such as here involved may not properly be filed [Sec. 1.30(e) of the Rules of Practice and Procedure (18 CFR 1.30(e),]. The subject tender has been considered as a motion for reconsideration pursuant to Section 1.12 of the Commission's Rules of Practice and Procedure.

We believe El Paso's contentions insofar as they are directed to the termination of the proceeding to be without merit. While the absence of a condition regarding flow-through in El Paso's outstanding rate settlement agreement might carry weight were we now seeking to give effect to those principles in El Paso's rates on a retroactive basis, it cannot, of course, preclude application of governing regulatory principles on a prospective basis if the facts so warrant. The petition does not set forth any facts or law to support El Paso's request for termination of the proceedings.

El Paso asks in the alternative that the order issued August 30, 1966 "be implemented to make clear that said order does not shift the duty of going forward to Respondent nor place the burden of proof on El Paso to establish the fairness and reasonableness of its return on its jurisdictional operations."

This request by El Paso appears to be based on a misconception of the nature of the order issued August 30, 1966. The order seeks a determination under Section 5 of the Natural Gas Act with respect to the just and reasonable rates to be charged by El Paso. But it has nothing to do with the burden of going forward with the evidence in such a proceeding or the burden of proof therein. Sections 10, 14 and 16 of the Act, specifically cited in the order, make it perfectly clear that the Commission is free in anticipation of such a proceeding to secure relevant information from a natural gas company. Moreover, it is appropriate to do so through the show cause procedure which, *inter alia*, has the benefits of advising the natural gas company of the tentative views of the Commission of the factual and legal issues, thus requiring the pipeline to affirm or deny specific assertions and to supply other relevant data. See *e.g., Texas Eastern Transmission Corporation*, 34 FPC 1090, appeal dismissed *sub nom. Texas Eastern Transmission Corporation* v. *F.P.C.*, 357 F. 2d 232 (CA5–1966). The extent to which factual issues may continue to exist which would necessitate an evidentiary hearing will of course depend on the nature of El Paso's response to the show cause order. This is particularly true in a situation where any rate reduction which may prove to be appropriate is only prospective and the underlying Commission authority over the subject matter of the inquiry has been judicially affirmed (See *Alabama-Tennessee Natural Gas Company* v. *F.P.C.*, 359 F. 2d 318 (CA5) certiorari denied, October 10, 1966). El Paso has no right or equity upon which it can rely in seeking a prompt resolution of the issue. If there are factual issues which require an evidentiary hearing, El Paso will have full opportunity to rebut or answer such evidence as will be presented by the staff or any other party.

In view of the foregoing, we find that El Paso's petition for rehearing sets forth no reasons which warrant termination of this proceeding and that the petition should be denied.

The Commission orders:

The motion filed by El Paso on September 29, 1966 is denied.

Commissioner Carver *not participating.*

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[3] Docket Nos. G–4769, G–12948, G–17929 and RP60–3.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and John A. Carver, Jr.

NORTHERN NATURAL GAS COMPANY, DOCKET NO. CP65-196

ORDER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued October 24, 1966)

On September 9, 1966, Northern Natural Gas Company (Petitioner), filed in Docket No. CP65-196 a petition to amend the order issued in said docket on May 25, 1966, 35 FPC 790, so as to authorize an increase in pipe size on a portion of the branchline to Arlington, Wisconsin, and an increase in the volume sold and delivered to Wisconsin Power and Light Company (Wisconsin Power) for resale, all as more fully set forth in the petition to amend.

The Commission's order issued May 25, 1966, in the instant proceeding authorized the construction and operation of main and branchline facilities to provide initial natural gas service to 131 communities including Arlington, Wisconsin. Wisconsin Power the distributor in Arlington recently reached an agreement with California Packing Corporation for the sale of gas on an interruptible basis to be used for food packing. Wisconsin Power has requested Petitioner to install facilities to provide this service.

Petitioner requests authority to construct and operate 3.9 miles of 4-inch pipeline to Arlington in lieu of 3.9 miles of 2-inch line and two meter runs in lieu of one 500 B metric meter authorized in the aforementioned order.

The estimated third year maximum day and annual requirements of California Packing are 2300 and 157,300 Mcf, respectively.

Petitioner estimates the cost to construct the revised facilities is $104,922.

Due notice of the subject application to amend and opportunity for hearing has been given by publication in the Federal Register on September 22, 1966 (31 F.R. 12539). No protest or petition to intervene has been filed concerning this amendment.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's order issued May 25, 1966, in Docket No. CP65-196 be amended as hereinafter ordered.

The Commission orders:

(A) The Commission's order issued May 25, 1966, in Docket No. CP65-196 is amended by authorizing Northern to construct and operate 3.9 miles of 4-inch pipeline to Arlington in lieu of 3.9 miles of 2-inch pipeline, and two meter runs in lieu of 500 B metric meter, as previously authorized, all as hereinbefore described and as set forth in the subject application to amend.

(B) The amendment authorized by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with applicable Commission Regulations under the Natural Gas Act and particularly the conditions set forth in paragraphs (f) and (g) of Section 157.20 of such Regulations.

(C) In all other respects said order shall remain in full force and effect.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and John A. Carver, Jr.

TENNESSEE GAS PIPELINE COMPANY, A DIVISION OF TENNECO INC., DOCKET NO. CP67-46

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued October 24, 1966)

On August 25, 1966, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant) filed in Docket No. CP67-46 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery, on a firm basis, of additional quantities of natural gas to certain existing customers, all as more fully set forth in the application in this proceeding.

Specifically, Applicant proposes to sell, commencing with the 1966-67 winter heating season, additional quantities of natural gas to twenty existing General Service customers and to one existing Contract Demand customer as set forth in the appendix attached to this order. The proposed additional service totals approximately 22,815 Mcf of gas per day.

Applicant states that the proposed increased service will be rendered through the utilization of unallocated pipeline capacity authorized by the Commission's orders issued May 10, 1966, and May 24, 1966, 35 FPC 715, 784, in Docket Nos. CP66-180 and CP66-303, respectively. Accordingly, no new facilities are proposed in the subject application.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on October 20, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., a Delaware corporation having its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of July 12, 1947, in Docket No. G-910 (6 FPC 777).

(2) The proposed sales and transportation of natural gas hereinbefore described, as more fully described in the application in this proceeding, will be in interstate commerce, subject to the jurisdiction of the Commission, and such proposed sales and transportation by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The proposed sales and transportation of natural gas by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas

Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(3) and (e) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Applicant, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., to sell and deliver natural gas as hereinbefore described and as set forth in the appendix to this order, all as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(3) and (e) of Section 157.20 of such Regulations.

(C) The proposed sales and delivery of natural gas, authorized in paragraph (A) above, shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within 3 months from the date on which this order issues.

APPENDIX

DOCKET No. CP67-46

Tennessee Gas Pipeline Company tabulation of presently authorized and proposed contracted demand and maximum contract quantities (Mcf at 14.73 psia)

Line No.	Particulars	Applicable rate schedule	Contracted demand or maximum contract quantity		
			Presently authorized	Proposed increase	Proposed total
	(1)	(2)	(3)	(4)	(5)
	General service customers:				
1	Bolivar, Tennessee (Town of)	GS-1	4,224	392	4,616
2	Bridgeport Gas Co	IG-6 [1]	32,858	1,020	33,878
3	Clarksville, Tennessee (City of)	G-1	16,510	3,990	20,500
4	Connecticut Gas Co.:				
5	Norwalk	G-6	3,220	1,200	4,420
6	Winsted	GS-6	1,528	227	1,755
7	Delta Natural Gas Co.:				
8	Berea	GS-2	3,200	116	3,316
9	Nicholasville	GS-2	4,600	375	4,975
10	Gas Service, Inc.: Nashua	G-6	6,800	730	7,530
11	Grayson, Kentucky (Town of)	GS-2	1,440	190	1,630
12	Henderson, Tennessee (Town of)	GS-1	1,501	109	1,610
13	Humphreys County Utility District	G-1	4,675	1,275	5,950
14	Lexington, Tennessee (Town of)	GS-1	2,385	515	2,900
15	Lowell Gas Co	G-6	27,052	488	27,540
16	New Albany, Mississippi (City of)	GS-1	4,120	366	4,486
17	New York State Electric and Gas Corp	G-5	21,860	1,640	23,500
18	Olive Hill, Kentucky (City of)	GS-2	800	200	1,000
19	Parsons, Tennessee (Town of)	GS-1	1,450	300	1,750
20	Pontotoc, Mississippi (City of)	GS-1	2,291	448	2,739
21	Ripley, Mississippi (City of)	GS-1	3,915	151	4,066
22	Tennessee Natural Gas Lines:				
23	Ashland City	GS-1	1,269	598	1,867
24	Nashville	G-1	138,307	1,083	139,390
25	West Tennessee Public Utility District	G-1	6,619	2,181	8,800
26	Western Kentucky Gas Co.: Lebanon	G-2	5,692	121	5,813
27	Total general service customers		296,316	17,715	314,031
	Contracted demand customers:				
28	North Penn Gas Co	CD-4	26,520	5,100	31,620
	Total		322,836	22,815	345,651

[1] Tennessee filed with the Commission on June 22, 1966, its proposed IG-6 Rate Schedule to be effective August 1, 1966.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and John A. Carver, Jr.

UNITED GAS PIPE LINE COMPANY, DOCKET NO. CP66-363

ORDER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued October 24, 1966)

On September 1, 1966, United Gas Pipe Line Company (Petitioner) filed in Docket No. CP66-363 a petition to amend the order of August 15, 1966, 36 FPC 449, issuing a certificate of public convenience and necessity in the instant docket so as to delete therefrom authorization to construct and operate facilities for the metering of up to 1,000 Mcf of natural gas per day to Beacon Oil and Refining Company (Beacon), Rusk County, Texas, all as more fully set forth in the petition to amend.

Petitioner states that a subsequent redetermination of the capacity of the facilities installed for service to Beacon under Docket No. CP66–52 has revealed that the facilities installed will be ample to measure the volumes contemplated to be sold to Beacon and that it will not be necessary to construct and operate the metering facilities authorized by the order of August 15, 1966. Based on such redetermination, Petitioner now requests that said order be amended to delete authorization for the construction and operation of such metering facilities.

Due notice of the subject application to amend and opportunity for hearing has been given by publication in the Federal Register on September 14, 1966 (31 F.R. 12029). No protest or petition to intervene has been filed concerning this amendment.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's order issued August 15, 1966, in Docket No. CP66–363 be amended as hereinafter ordered.

The Commission orders:

(A) Commission's order issued August 15, 1966, in Docket No. CP66–363 is amended so as to delete therefrom authorization to Petitioner to construct and operate metering facilities to measure up to 1000 Mcf daily to Beacon, as requested by Applicant in the subject application to amend.

(B) In all other respects said order shall remain in full force and effect.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and John A. Carver, Jr.

ASHLAND OIL & REFINING COMPANY, DOCKET NO. CI63–489

ORDER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued October 25, 1966)

On July 22, 1966, Ashland Oil & Refining Company (Petitioner) filed in Docket No. CI63–489 a petition to amend the order issued January 11, 1965, in Docket No. G–5216, *et al.*, by authorizing Petitioner *nunc pro tunc* in Docket No. CI63–489 to sell natural gas from additional acreage in Woodward County, Oklahoma, at an initial rate of 17.0 cents per Mcf plus Btu adjustment, all as more fully set forth in the petition to amend.

The order of January 11, 1965, authorized Petitioner in Docket No. CI63–489 to sell natural gas to Michigan Wisconsin Pipe Line Company from additional acreage in Dewey County, Oklahoma, pursuant to a Supplemental Agreement dated August 18, 1964, on file with the Commission and designated as Supplement No. 5 to Petitioner's FPC Gas Rate Schedule No. 81. Said authorization was issued pursuant to a request by Petitioner in a petition to amend filed November 12, 1964, in the subject docket. Applicant agreed to accept said authorization conditioned as was its temporary certificate issued January 14, 1963, in the subject docket; *i.e.*, the initial rate would not exceed 15.0 cents per Mcf at 14.65 psia, including tax reimbursement, plus upward or downward

Btu adjustment. Applicant now seeks to amend its petition of November 12, 1964, by requesting authorization *nunc pro tunc* to sell natural gas from Woodward County at a 17.0-cent rate.

In the instant petition Petitioner states that the permanent certificate issued December 18, 1963, superseded the temporary certificate issued January 14, 1963, and that the conditions of the temporary certificate were thereafter no longer in effect but were replaced by the conditions of the permanent certificate. The foregoing is a correct statement of the effect of the temporary certificate and its conditions after the issuance of the permanent certificate; however, Applicant, in its petition of November 12, 1964, did not request and the Commission, in the order of January 11, 1965, did not order that the sales from the additional acreage be made pursuant to the conditioned temporary certificate, but rather the conditions of the temporary certificate were incorporated by reference in the authorization which amended the permanent certificate by allowing sales from additional acreage. Although the temporary certificate itself was no longer effective at the time that Applicant requested and the Commission issued the amending order, the conditions of the temporary certificate were in writing and in existence in the official records of the Commission and could validly be and were incorporated by reference in the amending order. The amending order was issued as Petitioner requested and it would not be appropriate at this time to authorize *nunc pro tunc* sales from Woodward County at the 17.0-cent rate.

If Petitioner has been selling gas from the Woodward County acreage, such sales have been without authorization from the Commission and contrary to the provisions of the Natural Gas Act.[1] Although Supplement No. 5 to Petitioner's FPC Gas Rate Schedule No. 81 does include both Dewey and Woodward County acreage, the petition to amend of November 12, 1964, specifically requests authorization to sell natural gas only from the Dewey County portion of that added acreage. Inasmuch as Petitioner has now made it clear that it desires to sell gas from the Woodward County acreage at 17.0-cent rate, such sales will be authorized effective as of the date of this order and will be subject to the same conditions as the permanent certificate in this docket, *i.e.*, the conditions set forth in Opinion No. 353, 27 FPC 449.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the order issuing a certificate to Petitioner in Docket No. CI63-489 should be amended as hereinafter ordered.

The Commission orders:

The order issuing a certificate to Petitioner in Docket No. CI63-489 is amended by authorizing sales of natural gas from acreage in Woodward County, Oklahoma, effective on the date of this order, pursuant to Supplement No. 5 to Petitioner's FPC Gas Rate Schedule No. 81, at an initial rate of 17.0 cents per Mcf at 14.65 psia, including tax reimbursement, plus upward or downward Btu adjustment; and in all other respects said order shall remain in full force and effect.

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[1] Petitioner does not indicate in the instant petition that it has, in fact, been selling gas from the Woodward County acreage.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and John A. Carver, Jr.

EL PASO NATURAL GAS COMPANY, DOCKET NO. CP63-296

FINDINGS AND ORDER FURTHER AMENDING ORDERS ISSUING CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND ACCEPTING RATE FILING

(Issued October 25, 1966)

On August 19, 1966, El Paso Natural Gas Company (Petitioner) filed in Docket No. CP63-296 a petition to amend further the Commission's orders issued December 16, 1963, 30 FPC 1520, and July 29, 1964, 32 FPC 423, in the subject docket, as amended on March 23, 1965, 33 FPC 592, by authorizing Petitioner to continue the sale and delivery of 70,000 Mcf of natural gas per day to Southern California Gas Company and Southern Counties Gas Company of California (hereinafter referred to jointly as Southern) until January 1, 1967, or until the commencement of any new service authorized in Docket No. CP63-204, *et al.*, whichever is earlier, all as more fully set forth in the petition to amend further in this proceeding.

By the orders of December 16, 1963, and July 29, 1964, in Phases I and II, respectively, in the subject docket, Petitioner was authorized, among other things, to sell and deliver up to 100,000 Mcf of natural gas per day to Southern for a limited term ending November 1, 1965, or until commencement of any new service which resulted from an order issued by the Commission in Docket No. CP63-204, *et al.*, whichever was earlier. The order of March 23, 1965, extended the limited period until November 1, 1966, or until commencement of any new service which resulted from an order issued in said Docket No. CP63-204, *et al.*, whichever is earlier, and limited volumes to 70,000 Mcf per day as requested.

Petitioner and Southern have entered into an agreement, dated August 1, 1966, extending the term of the sale of 70,000 Mcf per day as hereinabove stated. On September 8, 1966, Petitioner tendered for filing the subject service agreement and its proposed Fourth Revised Sheet No. 27-K to its FPC Gas Tariff, Original Volume No. 1.

Due notice of the filing of the application to amend further and opportunity for hearing thereon has been given by publication in the Federal Register on September 2, 1966 (31 F.R. 11627). No protest or petition to intervene has been filed in this proceeding.

The Commission finds:

(1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's orders issued December 16, 1963, and July 29, 1964, as amended on March 23, 1965, in Docket No. CP63-296 be further amended as hereinafter ordered.

(2) Petitioner's service agreement, dated August 1, 1966, and its proposed Fourth Revised Sheet No. 27-K to its FPC Gas Tariff, Original Volume No. 1, tendered for filing on September 8, 1966, should be accepted for filing to become effective on the date this order issues.

The Commission orders:

(A) The Commission's orders issued December 16, 1963, and July 29, 1964, as amended on March 23, 1965, in Docket No. CP63-296 are further amended by authorizing Petitioner to continue the sale and delivery of 70,000 Mcf of natural gas per day to Southern commencing November 1, 1966, and continuing until January 1, 1967, or until the commencement of any new service authorized in Docket No. CP63-204, *et al.*, whichever is earlier, as hereinbefore described and as set forth in the petition to amend further.

(B) Petitioner's service agreement, dated August 1, 1966, and its proposed Fourth Revised Sheet No. 27-K to its FPC Gas Tariff, Original Volume No. 1, tendered for filing on September 8, 1966, is accepted for filing to become effective on the date this order issues.

(C) In all other respects said orders, as amended, shall remain in full force and effect.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and John A. Carver, Jr.

NATURAL GAS PIPELINE COMPANY OF AMERICA,
DOCKET NO. CP67-53

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued October 25, 1966)

On September 7, 1966, Natural Gas Pipeline Company of America (Applicant) filed in Docket No. CP67-53 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of an additional Maximum Daily Quantity (MDQ) of 410 Mcf of natural gas to the City of Perryville, Missouri, (Perryville) an existing customer of Applicant, all as more fully set forth in the application.

Perryville presently purchases its total gas requirements from Applicant and its presently effective MDQ is 2,340 Mcf under Applicant's Rate Schedule G-1.

Specifically, Applicant seeks authorization to increase its presently effective MDQ of 2,340 Mcf of natural gas to Perryville by 410 Mcf, to be effective as of December 1, 1966, thereby enabling Perryville to meet larger than previously anticipated increases in firm service demands for the 1966-67 winter heating season.

No additional facilities will be required to make the proposed delivery.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed herein.

At a hearing held on October 20, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Natural Gas Pipeline Company of America, a Delaware corporation having its principal place of business in Chicago, Illinois, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of October 13, 1942, in Docket No. G-235 (3 FPC 830).

(2) The proposed sale of increased volumes of natural gas hereinbefore described, as more fully described in the application in this proceeding, will be a sale of natural gas in interstate commerce subject to the jurisdiction of the

Commission and is subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The sale of increased volumes of natural gas, as proposed in the application, is required by the public convenience and necessity, and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate hereinafter issued and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b) and (e) of Section 157.20 of said Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, Natural Gas Pipeline Company of America, authorizing the sale of increased volumes of natural gas, as hereinbefore described and as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a) and (e) of Section 157.20 of such Regulations.

(C) The certificate issued by paragraph (A) above and the rights granted thereunder are further conditioned upon Applicant's filing a revised service agreement to reflect the additional service proposed herein.

(D) The sale of increased volumes of natural gas authorized in paragraph (A) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within 6 months from the date of this order.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and John A. Carver, Jr.

TOWN OF SABULA, IOWA AND NORTHERN NATURAL GAS COMPANY, DOCKET NO. CP66-397

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued October 25, 1966)

On June 3, 1966, the Town of Sabula, Iowa (Applicant) filed in Docket No. CP66-397 an application, as supplemented on August 2, 1966, pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Northern Natural Gas Company (Respondent) to establish physical connection of its transmission facilities with the facilities proposed to be constructed by Applicant and to sell and deliver to Applicant volumes of natural gas for resale and distribution in the Town of Sabula, Jackson County, Iowa, all as more fully set forth in the application.

Applicant is located on the eastern border of Iowa, approximately one mile south of the terminus of Respondent's existing Savanna branchline in Jackson County, Iowa.

Applicant proposes that Respondent construct approximately one mile of 2-inch lateral pipeline in accordance with the branchline extension policy fixed for Respondent in Opinion No. 324 issued on July 31, 1959 (22 FPC 164). Applicant further proposes to construct a distribution system of intermediate pressure design to provide natural gas service to residential and commercial establishments, to schools, and to an interruptible industrial customer, for cooking, water heating, spaceheating, and other associated uses.

Respondent's lateral facilities to serve Applicant were proposed by Respondent in its application filed in Docket No. CP65-196, and were authorized by the order of the Commission issued in said docket on May 25, 1966 (Opinion No. 491, 35 FPC 790).

Applicant's estimated third year annual and peak day requirements are 39,300 Mcf and 313 Mcf of natural gas, respectively.

The total estimated cost of Applicant's proposed facilities is $117,640, which cost will be financed through the issuance of $118,000 of 25-year gas revenue bonds at 4.5 percent interest rate.

Respondent's responses to the instant application filed on July 11, 1966 and August 29, 1966, did not indicate objection to the issuance of the order as requested.

The Commission finds:

(1) Respondent, Northern Natural Gas Company, a Delaware corporation with its principal place of business in Kansas City, Missouri, is a "natural-gas company" within the meaning of the Natural Gas Act as found by the Commission in its order issued on April 6, 1943, in Docket No. G-280 (3 FPC 967).

(2) Applicant, the Town of Sabula, Iowa, is a municipal corporation incorporated under the laws of the State of Iowa and is legally empowered to construct and operate natural gas facilities and to sell and distribute natural gas in said town.

(3) It is necessary and desirable in the public interest that Respondent be directed to establish physical connection of its natural gas transmission system with the proposed facilities of Applicant and to sell and deliver up to 313 Mcf of natural gas per day to Applicant, as set forth in the application and as hereinafter ordered and conditioned.

(4) This order should be conditioned upon Applicant being prepared to receive natural gas from Respondent, as proposed within one year from the date on which this order issues.

(5) The requirement that Respondent serve Applicant, as proposed, will not place any undue burden upon Respondent nor impair its ability to render adequate service to its existing customers.

The Commission orders:

(A) Respondent is directed to establish physical connection of its natural gas transmission system with the facilities to be constructed by Applicant and to sell and deliver up to 313 Mcf of natural gas per day to Applicant, all as hereinbefore described and as more fully described in the application.

(B) Applicant shall be prepared to receive natural gas from Respondent within one year from the date of this order.

(C) Respondent shall notify the Commission of the commencement of service within ten days thereof.

(D) Respondent shall execute and file with the Commission a service agreement with Applicant in accordance with the Commission's Regulations.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and John A. Carver, Jr.

TENNESSEE VALLEY MUNICIPAL GAS ASSOCIATION, ET AL. v. ALABAMA-TENNESSEE NATURAL GAS COMPANY, DOCKET NO. RP66-25

ORDER PROVIDING FOR INVESTIGATION AND HEARING AND DENYING MOTIONS FOR IMMEDIATE RATE REDUCTION PENDING HEARING AND TO DISMISS THE COMPLAINT

(Issued October 25, 1966)

Tennessee Valley Municipal Gas Association (Municipal Association) and its ten individual members* (Municipalities), on June 7, 1966, filed a formal complaint against Alabama-Tennessee Natural Gas Company (Alabama-Tennessee). Alabama-Tennessee filed an answer and a motion to dismiss on July 15, 1966. An Answer in Opposition to Defendant's Motion to Dismiss and Motion of Complainants for Prompt Hearing on Complaint was filed by the Municipal Association and Municipalities on July 25, 1966.

The complaint alleges that the municipalities purchase all their gas requirements for resale from Alabama-Tennessee at the rates at issue, the Alabama-Tennessee's rates for the sale in interstate commerce of natural gas for resale are excessive, unjust, unreasonable, and otherwise unlawful, and that the jurisdictional revenues exceed the jurisdictional cost of service by $285,072 or 2.36 cents per Mcf, out of which .48 cents per Mcf or $58,500 is applicable to the excess of liberalized tax depreciation over straight-line tax depreciation. In support of the allegations, included with the complaint are various computations and schedules, all based on the 1965 Annual Report of Alabama-Tennessee on file with the Commission. The prayer for relief consists of a motion for immediate rate reduction pending hearing, in the amount of $226,000 a year or 1.88 cents per Mcf, and a request that the matter be set for hearing.

Alabama-Tennessee denies the allegation that its rates are unjust or unreasonable or otherwise unlawful. It contends: (1) "It is entitled to a respite from further rate proceedings * * *"; (2) a hearing "would necessarily entail very substantial but needless expenditures of time and money"; (3) "there is no mention in the complaint to the effect that any future rate reductions would be passed on to the ultimate consumers for whose benefit the Natural Gas Act was enacted." A further basis of the motion to dismiss is the statement that rates cannot be fixed upon the basis of unadjusted book figures without giving effect to the normalization of costs.

Upon analysis of the documents filed, it is our view that an investigation should be instituted into the reasonableness of Defendant's rates, and that a public hearing should be held, in order to afford all parties an opportunity to present evidence on the issues presented; and that all matters which can be resolved without a formal hearing should be settled by stipulation, to expedite the hearing. However, there is no basis in the complaint for an immediate reduction pending hearing and decision on complaint.

The Commission finds:

It is necessary and appropriate for purposes of carrying out the provisions of Section 5(a) of the Natural Gas Act that an investigation and hearing be instituted to determine the lawfulness of Alabama-Tennessee's jurisdictional rate.

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*Athens, Decatur, Florence, Huntsville, Russellville, Sheffield, and Tuscumbia, Alabama; Corinth and Iuka, Mississippi; and Selmer, Tennessee.

The Commission orders:

(A) An investigation hereby is instituted to determine whether the Alabama-Tennessee jurisdictional rates are unjust and unreasonable and a hearing shall be held thereon. If, after hearing, the Commission finds that any rates, charges, classifications, rules, regulations, practices, or contracts are unjust unreasonable, and unduly discriminatory or preferential, the Commission shall thereupon determine, fix and prescribe by appropriate order or orders, just, reasonable, nondiscriminatory, and nonpreferential rates, charges, classifications, rules, regulations, practices or contracts.

(B) Pursuant to the authority contained in, and subject to the jurisdiction conferred upon the Federal Power Commission by the Natural Gas Act, particularly Sections 5, 14, 15 and 16 thereof, and to the Commission's Rules of Practice and Procedure, a public hearing shall be held in a hearing room of the Commission at 441 G Street, N.W., Washington, D.C., concerning the matters specified in Paragraph (A) above.

(C) Pursuant to the Commission's Rules of Practice and Procedure, particularly Sections 1.27, 1.30(j), and 3.4(e)(6) thereof, the Chief Examiner shall designate a hearing officer to preside at the pre-hearing conference hereinafter provided for, and any subsequent pre-hearing conferences and hearings which he may deem appropriate in these proceedings and to render an Initial Decision on the issues.

(D) The following schedule for the service of testimony is hereby prescribed:

November 22, 1966, service of direct testimony by the Complainants.

December 22, 1966, service of direct testimony by Alabama-Tennessee.

March 22, 1967, service of direct testimony by the Commission Staff and all Interveners.

(E) Pursuant to Section 1.18 of the Commission's Rules of Practice and Procedure, a pre-hearing conference before the Presiding Examiner shall commence at 10:00 a.m. (EST) on March 27, 1967, in a hearing room of the Federal Power Commission, 441 G Street, N.W., Washington, D.C., for the purpose of defining the issues, reaching an agreement and stipulation thereon and on any facts relevant to this matter, and, if necessary, to prescribe procedure for hearing herein giving effect to the Commission's intent that this matter be expedited.

(F) Notices of intervention and petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure, Sections 1.8 and 1.37(f) (18 CFR 1.8 and 1.37(f)), on or before November 15, 1966.

Before Commissioners: Carl E. Bagge, Acting Chairman; L. J. O'Connor, Jr., Charles R. Ross and John A. Carver, Jr.

TURLOCK IRRIGATION DISTRICT AND MODESTO IRRIGATION DISTRICT, PROJECT NO. 2299

ORDER APPROVING AGREEMENT

(Issued October 25, 1966)

On May 31, 1966, Turlock Irrigation District and Modesto Irrigation District (Joint Licensees) submitted for Commission approval the "FOURTH AGREEMENT Between THE CITY AND COUNTY OF SAN FRANCISCO and THE

TURLOCK IRRIGATION DISTRICT AND THE MODESTO IRRIGATION DISTRICT" (Fourth Agreement) pursuant to Article 48 of the license for Project No. 2299 (New Don Pedro). The Fourth Agreement allocates the costs to be borne by the Joint Licensees and The City and County of San Francisco (San Francisco); and reiterates the division of storage space in New Don Pedro reservoir previously noted in our Opinion and Order Issuing License, 31 FPC 510, 523.

The proposed New Don Pedro dam and reservoir is a multi-purpose project designed to provide municipal water supply storage for San Francisco, flood control storage, irrigation water supply storage, and power generation. It is anticipated that the completed project will also offer substantial recreation benefits, and that its operation will permit the release of sufficient water into the streambed of the Tuolumne River so as to sustain the river's anadromous fish population during spawning season.

The Fourth Agreement takes cognizance of flood control contributions by the United States and of monies to be granted by the State of California for recreational functions and enhancement of fish and wildlife under the Davis-Grunsky Act (California Statutes of 1965, Chapter 282).

The Fourth Agreement provides that "* * * the Districts shall call for bids for the construction under a single construction contract with unit prices and separate supply contracts * * *". Article 15.

The approval of the Fourth Agreement by the Commission in this order will not make the construction of New Don Pedro dam and reservoir a certainty. Each of the Joint Licensees and San Francisco have provided themselves with an "escape" provision contained in Article 19 of the Fourth Agreement which reads as follows:

> In the event that (a) the estimated costs of the New Don Pedro Project to the Turlock Irrigation District, based on all factors known at that time, exceeds $28,216,904.00, the Turlock Irrigation District, at its option, may declare that the cost of the project exceeds the benefits; (b) the estimated costs of the New Don Pedro Project to the Modesto Irrigation District, based on all factors known at that time, exceeds $15,881,658.00, the Modesto Irrigation District, at its option, may declare that the cost of the project exceeds the benefits; (c) the estimated costs of the New Don Pedro Project to the City, based on all factors known at that time, exceeds $48,423,538.00, the City, at its option, may declare that the cost of the project exceeds the benefits; upon any such declaration the parties hereto agree that no party shall be bound by this agreement.

The Commission finds:

(1) The Fourth Agreement allocates storage space in the New Don Pedro reservoir to San Francisco in accordance with the Commission's finding in its order issuing license [finding (14), 31 FPC 510, 523] that the: "* * * agreement should entitle San Francisco to a maximum of 740,000 acre feet of storage in the New Don Pedro reservoir consisting of 570,000 acre feet of municipal exchange storage and 50 percent of the 340,000 acre feet off-season flood control space * * *".

(2) The allocation of costs by the Fourth Agreement between the Joint Licensees and San Francisco appears to be reasonable.

(3) The Fourth Agreement should be approved insofar as it allocates storage space in, and the construction costs of the New Don Pedro reservoir between San Francisco and the Joint Licensees.

(4) The Fourth Agreement satisfies Article 48 of the license.

The Commission orders:

(A) The Fourth Agreement is approved for the purposes specified in the above findings.

(B) This approval of the Fourth Agreement shall not operate to alter or amend the license in any respect, and shall not in any way constitute a waiver of any part, provision or condition of the license.

(C) Should the Fourth Agreement be subsequently altered or amended, insofar as it relates to the allocation of storage or the allocation of costs, such further agreement shall be filed with the Commission for its approval.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Carl E. Bagge and John A. Carver, Jr.

THE MANUFACTURERS LIGHT AND HEAT COMPANY, DOCKET NO. CP66–347; TEXAS EASTERN TRANSMISSION CORPORATION, CP64–5; TENNESSEE GAS PIPELINE COMPANY, A DIVISION OF TENNECO INC., CP67–115; TRANSCONTINENTAL GAS PIPE LINE CORPORATION, CP67–116

ORDER TO SHOW CAUSE AND GRANTING MOTION TO CONSOLIDATE

(Issued October 28, 1966)

Subsequent to the issuance of our notice of the application of The Manufacturers Light and Heat Company (Manufacturers) in Docket No. CP66–347, we issued an order granting the petitions to intervene filed by Pennsylvania Gas and Water Company (Penn Gas) and by The United Gas Improvement Company (UGI). In said application Manufacturers proposes to construct facilities estimated to cost approximately $8,735,000 so as to take into its system additional volumes of gas, primarily from Texas Eastern Transmission Corporation (Texas Eastern), and transport and sell additional volumes of gas to existing customers. Included therein are additional volumes for Home Gas Company (Home). Texas Eastern, in its motion filed August 17, 1966, to amend the certificate heretofore issued by the Commission in Docket No. CP64–5, now seeks authorization to increase its deliveries to existing customers including its authorized sales to Manufacturers.

On September 20, 1966, Penn Gas filed a motion seeking to consolidate the application of Texas Eastern in CP64–5 with that of Manufacturers in CP66–347. Texas Eastern in response argues that any consolidation should be limited to its specific proposal of additional sales to Manufacturers. There can be no question that the proposal of Manufacturers is interrelated and dependent upon the application of Texas Eastern. However, we do not think that the other sales proposed by Texas Eastern should become involved in the contested Manufacturers application. We shall therefore sever that portion of Texas Eastern's filing in Docket No. CP64–5 relating to the proposed sale to Manufacturers and consolidate it into the formal proceeding ordered in Docket No. CP66–347.

In its petition to consolidate Penn Gas points out that deliveries by Texas Eastern to Manufacturers will be in the latter's Western Market area and will thence be transported through the proposed new facilities of Manufacturers to its Eastern Market area. Since Texas Eastern is presently making deliveries to Manufacturers in the latter's Eastern Market area and since existing facilities of Tennessee Gas Pipeline Company (Tennessee) and Transcontinental Gas Pipe Line Corporation (Transco) traverse Manufacturers' Eastern Market area and intersect its line at a point in close proximity to Manufacturers delivery point to Home additional deliveries there by Texas Eastern might eliminate the need for the facilities proposed to be constructed by Manufacturers in Docket No. CP66–347.

If reasonable alternatives are or may be available which would eliminate the need for the construction proposed by Manufacturers and at the same time provide the services proposed, it is in the public interest to issue an order consolidating herewith, and directing Tennessee and Transco to show cause why they should not be required to make the requisite sales to Manufacturers and/or Home.

The Commission orders:

(A) The motion filed by Penn Gas is hereby granted in part, to wit: That portion of Texas Eastern's application in Docket No. CP64–5, filed August 17, 1966, dealing with the proposed increased sales to Manufacturers is hereby severed and consolidated with the instant proceeding.

(B) Tennessee Gas Pipeline Company and Transcontinental Gas Pipe Line Corporation are ordered to show cause, pursuant to Section 16 of the Natural Gas Act and as provided by Section 1.6 of the Commission's Rules, why either of the above-named pipelines should not be required to make the sales to Manufacturers and/or Home in the amounts proposed by Texas Eastern and Manufacturers. Hearing on said order is consolidated with the instant proceeding.

(C) Texas Eastern is hereby required to include as part of its presentation evidence as to its ability, among other things, to deliver the proposed volumes to Manufacturers in the latter's Eastern Market area.

(D) Since we have provided for procedures and a hearing date in our order of August 23, 1966, in Docket No. CP66–347, further procedures herein are left to the discretion of the appointed Hearing Examiner.

(E) Additional petitions or notices of intervention must be filed on or before November 14, 1966.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

TOWN OF PRESTON, IOWA AND NORTHERN NATURAL GAS COMPANY, DOCKET NO. CP66–396

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued October 28, 1966)

On June 3, 1966, the Town of Preston, Iowa (Applicant), filed in Docket No. CP66–396 an application, as supplemented on August 3, 1966, pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Northern Natural Gas Company (Respondent) to establish physical connection of its natural gas transmission facilities with facilities proposed to be constructed by Applicant and to sell and deliver natural gas to Applicant for resale and distribution in the Town of Preston, all as more fully set forth in the application.

Applicant proposes to construct and operate 4.3 miles of 3-inch lateral pipeline between its proposed distribution system and Respondent's Savanna branchline in Jackson County, Iowa. Estimated cost of Applicant's facilities is $136,030, to be financed through the issuance of long term revenue bonds.

Applicant's estimated peak day and annual natural gas requirements in Mcf at 14.73 psia for the first three years of operations are as follows:

	1st year	2d year	3d year
Annual	29,970	89,440	96,950
Peak day	224	293	358

Applicant will purchase the gas under Respondent's Rate Schedule CD-3 from an allocation made by the Commission in the proceeding in Docket No. CP65-196.

On July 11, 1966, Respondent filed an answer, as supplemented on August 29, 1966, and October 24, 1966, in which it urges the granting of the application.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been received.

The Commission finds:

(1) Applicant, the Town of Preston, Iowa, is a municipal corporation organized and existing under the laws of the State of Iowa, and is legally empowered to construct and operate natural gas facilities and to sell and distribute natural gas in the Town of Preston.

(2) Respondent, Northern Natural Gas Company, a Delaware corporation having its principal place of business in Omaha, Nebraska, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of April 6, 1943, in Docket No. G-280 (3 FPC 967).

(3) It is necessary and desirable in the public interest to direct Respondent to establish physical connection of its transmission facilities with the facilities proposed to be constructed and operated by Applicant and to sell and deliver to Applicant natural gas for resale and distribution in the Town of Preston.

(4) The requirement that Respondent serve Applicant will not place an undue burden upon Respondent or impair Respondent's ability to render adequate service to its existing customers.

The Commission orders:

(A) Respondent is directed to establish physical connection of its facilities with the facilities proposed to be constructed and operated by Applicant and to sell and deliver to Applicant up to 358 Mcf at 14.73 psia of natural gas per day for resale and distribution in the Town of Preston, Iowa, all as hereinbefore described and as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) Applicant shall be prepared to receive service from Respondent within one year from the date of this order.

(C) Respondent shall report to the Commission in writing the date of commencement of service to Applicant within ten days thereof.

(D) Respondent shall file pursuant to Part 154 of the Regulations under the Natural Gas Act an executed service agreement with Applicant.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

UNITED STATES DEPARTMENT OF THE INTERIOR, BONNEVILLE POWER ADMINISTRATION, DOCKET NO. E-7312

ORDER CONFIRMING AND APPROVING RATE SCHEDULE

(Issued October 28, 1966)

On September 15, 1966, the Assistant Secretary of the Interior, acting on behalf of the Bonneville Power Administration (Bonneville) pursuant to the provisions of the Bonneville Act (50 Stat. 731), as amended, filed a request for Commission approval of the rates contained in Power Sales Contract No. 14-03-64453 for the sale of power by Bonneville to Washington Public Power Supply System (WPPSS) for use at the Hanford Atomic Power Plant. The power will be used for start-up of the steam turbine generators, maintenance during shut-down periods, and other incidental power plant uses.

The contract provides that such service will be at a rate of 2.5 mills per kilowatt-hour subject to approval of the Federal Power Commission. The Assistant Secretary, states that Wholesale Energy Rate Schedule H-4, under which energy is sold at 2.5 mills per kilowatt-hour, which is available for emergency, experimental, research, and testing uses is not specifically applicable to this type of load. However, Bonneville maintains that the intermittent uses of power supplied under contract No. 14-03-64453 are similar to those which can be served under the H-4 rate schedule and therefore it is appropriate that the rate of 2.5 mills per kilowatt-hour be applied.

Bonneville's General Wholesale Power Rate Schedules, which included Rate Schedule H-4, were approved by the Federal Power Commission in its Opinion No. 482 and order issued December 14, 1965, 34 FPC 1462 (Docket No. E-6611, *et al.*), for a period ending December 20, 1969.

The Commission finds:

It is appropriate for the purposes of the Bonneville Act that the rates and charges for the sale of power by Bonneville to Washington Public Power Supply System as referred to above be confirmed and approved.

The Commission orders:

The rate of 2.5 mills per kilowatt-hour for the sale of energy under Contract No. 14-03-64453 by Bonneville to Washington Public Power Supply System, such energy to be used only at the Hanford Atomic Power Plant, is confirmed and approved for a period ending December 20, 1969.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

VOLUNTEER NATURAL GAS COMPANY AND EAST TENNESSEE NATURAL GAS COMPANY, DOCKET NO. CP67-77

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued October 28, 1966)

On September 22, 1966, Volunteer Natural Gas Company (Applicant), filed in Docket No. CP67-77 an application pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing East Tennessee Natural Gas

Company (Respondent) to establish physical connection with the facilities proposed to be constructed by Applicant and to sell and deliver to Applicant volumes of natural gas for resale in Gray, Tennessee, all as more fully set forth in the application.

Applicant seeks a physical connection of its proposed facilities near Gray, Tennessee, with the existing 8⅝-inch lateral of Respondent in Washington County, Tennessee. It is contemplated that Respondent would tap its line and provide a regulating and metering station, as provided by its existing tariff.

The estimated third year annual and peak day requirements of Applicant for Gray, Tennessee are 43,622 Mcf and 506 Mcf respectively, at 14.73 psia.

Applicant estimates that the total cost of the proposed construction is $10,525, which will be financed from cash on hand.

Applicant is legally authorized to construct and operate gas distribution facilities.

Respondent, by letter dated October 17, 1966, indicated that it does not oppose the granting of the application.

Due notice of the filing of the subject application and opportunity for hearing thereon have been given by publication in the Federal Register on October 8, 1966 (31 F.R. 13100). No protest, petition to intervene, notice of intervention or request for hearing has been filed in this proceeding.

The Commission finds:

(1) East Tennessee Natural Gas Company, a Tennessee corporation having its principal place of business in Knoxville, Tennessee, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order issued August 27, 1963, in Docket No. CP63-313 (30 FPC 607).

(2) Applicant, is legally authorized to engage in the local distribution of natural gas to the public within the meaning of Section 7(a) of the Natural Gas Act.

(3) It is necessary and desirable in the public interest to direct Respondent to establish physical connection of its transmission facilities with the facilities proposed to be constructed and operated by Applicant, and to sell and deliver to Applicant under a service agreement to be executed by Applicant with Respondent in accordance with the Commission's Regulations, up to 506 Mcf per day of natural gas for distribution and resale as hereinbefore described and as more fully described in the application in this proceeding.

(4) Applicant should be prepared to receive natural gas from Respondent for distribution in Gray, Tennessee and environs, within one year from the date of the issuance of this order.

(5) The requirement that Respondent serve Applicant, as requested, will not place an undue burden upon it nor impair its ability to render adequate service to its existing customers.

The Commission orders:

(A) East Tennessee Natural Gas Company, Respondent, is directed to establish physical connection of its facilities with the facilities proposed to be constructed and operated by Applicant, as herein described, and to sell and deliver up to 506 Mcf of natural gas daily to Applicant, under a service agreement to be executed by Applicant with Respondent in accordance with the Commission's Regulations, for resale as hereinbefore described and as more fully described in the application in this proceeding. Such service shall be rendered pursuant to Respondent's presently filed appropriate rate schedule.

(B) Respondent shall report to the Commission in writing the date of commencement of service to Applicant within 10 days thereof.

(C) Applicant shall be prepared to receive service as directed herein within one year from the date of issuance of this order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

WOODS OIL AND GAS CO. (OPERATOR), ET AL., DOCKET NO. CI67-261

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND ACCEPTING FPC GAS RATE SCHEDULE AND SUPPLEMENT FOR FILING

(Issued October 28, 1966)

On September 2, 1966, Woods Oil and Gas Co. (Operator), *et al.* (Applicant), filed in Docket No. CI67-261 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Plaquemines Oil and Gas Company, Inc., from the Potash Field, Plaquemines Parish, Louisiana, at an initial rate of 15.5 cents per Mcf at 15.025 psia, inclusive of 1.5 cents per Mcf tax reimbursement, all as more fully set forth in the application.

Concurrently with the subject application Applicant submitted a copy of the related gas sales contract which will hereinafter be accepted for filing as Applicant's FPC gas rate schedule.

Applicant has commenced the subject sale without authorization from the Commission. The instant application has been filed pursuant to a request by the Commission based upon *California* v. *Lo-Vaca Gathering Co.*, 379 U.S. 366, in which case the Supreme Court held that the sale of natural gas to an interstate pipeline company, although such gas would contractually be restricted to consumption by the purchaser in its interstate operations, would be a sale of natural gas in interstate commerce for resale when commingled with gas from other sources which would, in fact, be sold outside of the state.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been received.

At a hearing held on October 27, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Woods Oil and Gas Co., is engaged in the sale for resale of natural gas in interstate commerce subject to the jurisdiction of the Commission and is, therefore, a "natural-gas company" within the meaning of the Natural Gas Act.

(2) The sale of natural gas hereinbefore described, as more fully described in the application herein, is made in interstate commerce, subject to the jurisdiction of the Commission, and such sale by Applicant, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, is subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The sale of natural gas by Applicant, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, is required by the public convenience and necessity, and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the related contract submitted by Applicant should be accepted for filing and designated as Applicant's FPC gas rate schedule.

The Commission orders:

(A) A certificate of public convenience and necessity is issued upon the terms and conditions of this order authorizing the sale by Applicant of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the application in this proceeding.

(B) The certificate granted in paragraph (A) above is not transferable and shall be effective only so long as Applicant continues the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations and orders of the Commission.

(C) The grant of the certificate issued in paragraph (A) above shall not be construed as a waiver of the requirements of Section 4 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's Regulations thereunder, and is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against Applicant. Further, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contract herein involved. Nor shall the grant of the certificate aforesaid for service to the particular customer involved imply approval of all of the terms of the contract, particularly as to the cessation of service upon termination of said contract, as provided by Section 7(b) of the Natural Gas Act. Nor shall the grant of the certificate aforesaid be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of the sale of natural gas subject to said certificate.

(D) The grant of the certificate issued herein is upon the condition that no increase in rate shall be filed prior to July 1, 1967, at any price which would exceed the ceiling prescribed for the given area by paragraph (d) of the Commission's Statement of General Policy No. 61-1, as amended.

(E) The contract of September 7, 1956, is accepted for filing and is designated as Woods Oil and Gas Co. (Operator), *et al.*, FPC Gas Rate Schedule No. 1, and the assignment of December 31, 1955, from James C. Woods to Woods Oil and Gas Co. is accepted for filing as Supplement No. 1 to said rate schedule.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

H. M. GILLESPIE, ET AL., DOCKET NOS. RI63-63, RI67-95; H. M. GILLESPIE, DOCKET NOS. RI64-159, RI67-94; EDWIN L. COX, DOCKET NO. RI67-96; SALMON CORPORATION, DOCKET NO. RI64-308

ORDER ACCEPTING NOTICES OF CHANGE IN RATE, AND TERMINATING PROCEEDINGS

(Issued October 31, 1966)

The above-named parties have filed notices of change in rate for a sale of natural gas to Cities Service Gas Company (Cities) in the Kansas Hugoton

Field.[1] The sale is made pursuant to the terms and conditions of Pan American Petroleum Corporation's FPC Gas Rate Schedule No. 84 because each of the parties have executed contracts adopting such terms and conditions.

On April 13, 1966, we issued an order in *Pan American Petroleum Corporation*, Docket No. G–9279, *et al.*, 35 FPC 502, approving a company-wide settlement proposal filed by Pan American, which, *inter alia*, included a settlement rate of 12.5¢ per Mcf of natural gas at 14.65 psia for the sale by Pan American under its FPC Gas Rate Schedule No. 84. Pan American also proposed to amend its contract with Cities to eliminate the price redetermination provision therefrom for twenty-five years and to provide for a definite price escalation of 1.0¢ per Mcf every five years commencing June 23, 1971.

Each of the parties here seeks the same settlement terms as we approved for Pan American's sale to Cities. Each has filed for a 12.5¢ rate and has tendered an executed amendatory agreement which conforms its contract to the provisions of the Pan American settlement.

H. M. Gillespie previously filed for increased rates of 14.5¢ per Mcf of natural gas which were suspended by orders of the Commission in Docket Nos. RI63–63 and RI64–159. Gillespie did not file a motion in accordance with Section 4 of the Natural Gas Act to place the suspended increased rates in effect. Salmon also filed for an increased rate of 14.5¢ per Mcf, which was suspended in Docket No. RI64–308, but has never been made effective. Consequently, acceptance of the subject filings makes termination of those proceedings proper.

For the reasons set forth in an order issued October 31, 1966, in *Northern Pump Company (Operator)*, *et al.*, Docket No. RI63–9, *et al.*, *infra*, p. 800, we think it appropriate to accept the notices of change filed herein. Our action should not be construed as constituting approval of any future rate increases, if any, that may be filed under the subject rate schedules in accordance with and reservation contained therein of the right to file increases under the subject rate schedules, and is without prejudice to any findings or orders of the Commission in any future rate proceedings, including area rate proceedings, or similar proceedings, involving each of the parties' rates and rate schedules.

The Commission orders:

(A) The notices of change in rate and contract amendments filed by the above-named parties to 12.5¢ per Mcf of natural gas at 14.65 psia for the subject sale to Cities are accepted and made effective as of the date of issuance of this order.

(B) The proceedings in Docket Nos. RI63–63, RI64–159 and RI64–308 are severed from the Area Rate Proceeding, Docket No. AR64–1, and terminated, and the proceedings in Docket Nos. RI67–94, RI67–95 and RI67–96 are terminated.

Commissioner Ross *dissenting* for the reasons set forth in his statement accompanying the order in Docket No. RI63–9, *et al.*, Northern Pump Company (Operator), *et al.*, issued October 31, 1966, *infra*, at p. 803.

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[1] H. M. Gillespie, FPC Gas Rate Schedule No. 9, Supplement Nos. 2 and 3. H. M. Gillespie, *et al.*, FPC Gas Rate Schedule No. 2, Supplement Nos. 4 and 5. Edwin L. Cox, FPC Gas Rate Schedule No. 2, Supplement Nos. 3 and 4. Salmon Corporation, FPC Gas Rate Schedule No. 1, Supplement Nos. 7, and 8. The filings by Gillespie and Cox were suspended by order issued October 14, 1966, in Docket Nos. RI67–94, RI67–95 and RI67–96 pending action herein.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

NORTHERN PUMP COMPANY (OPERATOR), ET AL.,[1]
DOCKET NO. RI63-9, ET AL.

ORDER CONDITIONALLY ACCEPTING OFFERS OF SETTLEMENT, ACCEPTING NOTICES OF CHANGE IN RATE, REQUIRING REFUNDS, SEVERING AND TERMINATING PROCEEDINGS

(Issued October 31, 1966)

On July 18, 1966, W. E. Bakke Oil Co. (Operator), *et al.*, (Bakke) filed an offer of settlement in Docket No. RI64-574 pursuant to Section 1.18(e) of the Commission's Rules of Practice and Procedure, and on August 9, 1966, each of the other Respondents to these proceedings filed identical offers of settlement of a sale of natural gas made by them to Cities Service Gas Company (Cities) in the Kansas-Hugoton Field under each of their FPC Gas Rate Schedules.

Respondents in some cases here are assignees under farmout agreements with Pan American Petroleum Corporation (Pan Am), which specifically provide that the assignments are subject to the provisions of the Pan Am-Cities contract (Pan Am's FPC Gas Rate Schedule No. 84). In the other cases respondents have interests covered by separate contracts adopting the terms and conditions of the Pan Am-Cities contract. All of the Respondents and Pan Am thus were selling gas to Cities under the same contract prior to the Pan Am settlement.

On April 13, 1966, 35 FPC 502, we issued an order approving a rate settlement proposal filed by Pan Am which, *inter alia*, included a proposed increased rate reduction from the then presently effective rate, being collected subject to refund, of 14.5¢ per Mcf of natural gas at 14.65 psia to 12.5¢ per Mcf for sales by Pan Am under its FPC Gas Rate Schedule No. 84. Additionally, Pan Am proposed to renegotiate its contract with Cities eliminating the price redetermination clause therefrom for 25 years and providing instead for a definite price escalation of 1.0¢ per Mcf every five years commencing June 23, 1971. Each of the Respondents herein propose the same terms for its interest in the subject sale, and each has filed an executed contract amendment containing the same pricing provisions contained in the Pan Am-Cities renegotiation.

Since the farmouts and additional dedications of Respondents cover only shallow depths, they do not propose to dedicate deeper horizons as Pan Am did in its settlement. Pan Am's company-wide moratorium also would not be applicable, but the contract amendments proposed by Respondent would, in effect, constitute a moratorium for the subject sales.

Each of the Respondents proposes to refund all monies collected subject to refund above the settlement rates. The amount of monies to be refunded is approximately $161,000.00, plus applicable interest.

The Respondents, other than Bakke, propose that the settlement rate of 12.5¢ per Mcf be made effective as of June 23, 1966, and that the refunds be computed accordingly. However, we find no good cause to grant their request, and shall condition our approval of the settlement proposals to require refunds to be computed to the date of issuance of this order.

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[1] Respondents are Northern Pump Company (Operator), *et al.*, Docket No. RI63-9; John B. Hawley, Jr., Docket No. RI66-10; John B. Hawley, Jr., Trustee, Docket No. RI63-11; Northern Pump Company, Docket No. RI63-12; G. S. and Norma D. Davidson, Docket No. RI63-13; and W. E. Bakke Oil Co. (Operator), *et al.*, Docket No. RI64-574.

We do not generally permit a producer to settle only one of its rate proceedings.[2] However, as indicated above, all of the Respondents here sell gas to Cities under the same terms and conditions. All of them are small producers.[3] For the three Respondents which have only one rate schedule on file, their offers also constitute a company-wide settlement. It is also clear that at least for the future Respondents could obtain the advantages of the Pan American settlement by having their interests covered under Pan Am's rate schedule. In view of these special circumstances, we think it appropriate to accord Respondents the same settlement terms approved for Pan Am's sale to Cities.

We believe that the settlement proposals are in the public interest and shall approve the same. However, we desire to make it clear that acceptance of Respondents' offers of settlement shall not be construed as approval of any future increased rate that may be filed by Respondents under the subject rate schedules and is without prejudice to any findings or order of the Commission in any future proceeding involving Respondents' rates and rate schedules. Additionally, for all of the reasons set forth in *Humble Oil & Refining Company*, Docket No. G–9287, *et al.*, 32 FPC 49, we shall require Respondents to deposit the refund monies in a special escrow account or to commingle the retained refunds with each of its general assets pending future action of the Commission.

The Commission finds:

The proposed settlement of the above-designated proceedings, on the basis described herein, as more fully set forth in the offers of settlement, filed with the Commission by Respondents on July 18 and August 9, 1966, are consistent with the public interest, and approval thereof as made effective and hereinafter ordered is appropriate to carry out the provisions of the Natural Gas Act.

The Commission orders:

(A) The offers of settlement, filed with the Commission by Respondents on July 18 and August 9, 1966, are approved in accordance with the provisions of this order.

(B) The notices of change in rate, reducing the presently effective rate, being collected subject to refund, from 14.5¢ to 12.5¢ per Mcf of natural gas at 14.65 psia as designated in the Appendix are accepted for filing and made effective as of the date of issuance of this order.

(C) Respondents shall compute the difference between the rates collected subject to refund and the settlement rate of 12.5¢ per Mcf of natural gas at 14.65 psia with applicable interest to the date of this order, and shall within 45 days from the date of issuance of this order submit a report to the Commission, with a copy to Cities, setting out the amount of refunds (showing separately the principal and applicable interest) the bases used for such determination, the period covered, and ten days thereafter each shall submit to the Commission a copy of a letter from Cities agreeing to the correctness of such amounts.

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[2] *Skelly Oil Company*, Docket No. RI60–253, order issued April 4, 1966, 35 FPC 463, and *Union Oil Company of California*, Docket Nos. G–3711 and RI60–450, order issued April 8, 1966, 35 FPC 484.

[3] There are some large producers which sell gas subject to the Pan Am contract, but they have not filed an offer of settlement here.

(D) Respondents shall retain the amounts shown in the report required under paragraph (C) above, subject to further action of the Commission directing the disposition of those amounts.

(E) Each Respondent may deposit the retained refunds in a special escrow account, and shall tender for filing within 60 days of the date of issuance of this order an executed Escrow Agreement, conditioned as set out below, accompanied by a certificate showing service of a copy thereof upon Cities.

Unless notified to the contrary by the Secretary within 30 days from the date of filing thereof, each escrow agreement shall be deemed to be satisfactory and to have been accepted for filing. The escrow agreement shall be entered into between each Respondent and any bank or trust company used as a depository of funds of the United States Government and the agreement shall be conditioned as follows:

(1) Each Respondent, the bank or trust company, and the successors and assigns of each, shall be held and formally bound unto the Federal Power Commission for the use and benefit of those entitled thereto, with respect to all amounts and the interest thereon deposited in the special escrow account, subject to such agreement, and such bank or trust company shall be bound to pay over to such person or persons as may be identified and designated by final action of the Commission and in such manner as may be therein specified, all or any portion of such deposits and the interest thereon.

(2) The bank or trust company may invest and reinvest such deposits in any short-term indebtedness of the United States or any agency thereof, or in any form of obligation guaranteed by the United States which is, respectively, payable within 120 days as the said bank or trust company in the exercise of its sound discretion may select.

(3) Such bank or trust company shall be liable only for such interest as the invested funds described in Paragraph (2) above will earn and no other interest may be collected from it.

(4) Such bank or trust company shall be entitled to such compensation as is fair, reasonable and customary for its services as such, which compensation shall be paid out of the escrow account to such bank or trust company. Said bank or trust company shall likewise be entitled to reimbursement for its reasonable expenses necessarily incurred in the administration of this escrow account, which reimbursement shall be paid out of the escrow account.

(5) Such bank or trust company shall report to the Secretary quarterly, certifying the amount deposited in the bank or trust company for the quarterly period.

(F) If any Respondent elects to commingle the retained refunds with its general assets and use them for business purposes, it shall notify the Secretary of the Commission of its intention so to do within sixty days of the issuance of this order, and shall pay interest on such monies at the rate of 6% per annum from the date of issuance of this order to the date on which they are paid over to the person or persons ultimately determined to be entitled thereto by final action of the Commission.

(G) Upon notification by the Secretary of the Commission that a Respondent has complied with the terms and conditions of this order, the proceedings in its proceedings involved herein shall terminate and shall be severed from the Area Rate Proceeding, Docket No. AR64–1, all without further order of the Commission.

(H) The acceptance by the Commission of Respondents' offers of settlement, is without prejudice to any findings or determinations that may be made in any proceeding now pending, or hereafter instituted by or against each Respondent and is without prejudice to claims or contentions which may be made by each Respondent, the Commission staff, or any affected party hereto, in any proceedings.

Commissioner Ross *dissenting.*

APPENDIX

	Rate schedule	Supplement No.
Northern Pump Co. (Operator) *et al*	5	13
Northern Pump Co	38	8
John B. Hawley, Jr	1	10
John B. Hawley, Jr., Trustee	1	5
G. S. and Norma G. Davidson	1	7
W. E. Bakke Oil Co. (Operator) *et al*	1	7

Ross, *Commissioner, dissenting:*

Before the Commission is an offer to settle individual sales from the Kansas-Hugoton field at a level which exceeds the established ceiling price applicable to sales from this area. Since this offer does not conform to the Commission's well defined policies for granting exceptions to the ceiling prices, I dissent.

As a general rule, the Commission does not accept prices above the established ceiling. This policy was announced in the Statement of General Policy No. 61–1, issued September 28, 1960, 24 FPC 818. As time passed, carefully circumscribed exceptions of general applicability were announced. These exceptions include the Second, Seventh and Ninth Amendments to the Statement of General Policy, and a very few exceptions in the context of company-wide settlements in which: (1) there were unique circumstances relative to the excepted sale, the most common of which was a distress sale; and (2) there were additional benefits, such as dedication of additional acreage. In no case, however, has the Commission accepted settlements of individual sales in excess of the ceiling. In fact, only seven months ago, the Commission explicitly rejected two such offers, stating: "* * * we believe that an above-ceiling settlement rate should only be considered in the light of a company-wide settlement proposal."[1]

I don't mean to suggest that the Commission's settlement policy should remain inflexible. But I do believe that exceptions should be carefully considered in the light of their precedential impact, and should be given general applicability. However, the order approving this settlement fails to provide an adequate explanation. The order does indicate that those filing the settlement are small producers. Until now, however, the interim ceilings, as well as the just and reasonable ceilings, have been made applicable to small producers. If small producers are to be exempted from producer price regulation by this Commission, it should be announced more clearly and made generally applicable. A piece-meal approach is hardly equitable to all in the class.

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[1] *Skelly Oil Co.*, Docket No. RI60–250, order issued April 4, 1966; see also *Union Oil of California*, Docket No. G–3711, *et al.*, order issued April 8, 1966.

The order also recites that this is a company-wide settlement for three of the producers because this is their only (jurisdictional) sale. As to those three producers, this could be a rational justification, but what about the other producers who make additional jurisdictional sales whose above-ceiling rates in this field will be approved under the instant settlement?

Finally, the order indicates that these producers could obtain, for the future, the benefits they seek here by having their interests covered by Pan American's applicable rate schedule. This factor serves more to confuse than to illuminate, for if indeed the producers can get what they want without necessitating a precedential break in the Commission's pricing policies, it is difficult to determine why the settlement is being approved. In this connection, it is interesting to note that these producers could have been covered by Pan American's filings from the very beginning. They chose, however, to make separate filings and defended their right to so file through all the stages of a litigated proceeding before this agency.[3] In that proceeding, these producers argued that they could be prejudiced by having their interests covered by Pan American. For example, they contended that Pan American might enter into an overall rate settlement that could be to their disadvantage. (29 FPC 1219) I mention this only to point out that the situation of these producers is not the product of an unfortunate turn of events, but rather the result of a careful, deliberate and hard-fought attempt to disassociate themselves from Pan American's rate filings covering this acreage.

In essence, the majority is giving all the benefits of a prior Pan American company-wide settlement to other producers without insisting on the *quid pro quo* required of Pan American. As additional settlement proposals follow, one could expect further concessions. This approach has the additional infirmity of inhibiting a producer from proposing an initial settlement because he may be required to make concessions not expected of those who settle after him.

To summarize, I dissent to the order accepting the instant settlement because it breaches the established ceiling price for the area involved, and no adequate reasons have been set forth for this policy deviation.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

SINCLAIR OIL & GAS COMPANY, DOCKET NO. CI62-1070

ORDER DENYING MOTION FOR RECONSIDERATION

(Issued October 31, 1966)

On March 29, 1966, Sinclair Oil & Gas Company (Sinclair) filed a motion requesting that the Commission reconsider the propriety of a 15 cents per Mcf price condition imposed in a temporary certificate relating to the sale of certain volumes of natural gas being produced from acreage located in Beaver County, Oklahoma. Sinclair had initially owned the lease to the aforementioned acreage in common with Earl F. Wakefield but had subsequently succeeded to his interest therein. Sinclair is requesting authorization to increase retroactively from 15 to 17 cents per Mcf the price of certain volumes of natural gas produced from this acreage that is already subject to an outstanding permanent certificate issued by this Commission.

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[3] *Pan American Petroleum Corp.*, Opinion No. 391, 29 FPC 1216 (1963).

Earl F. Wakefield and Sinclair jointly owned the aforementioned acreage in January 1952. On March 16, 1956, Wakefield and Colorado Interstate Gas Company (C.I.G.) entered into a contract with respect to the sale of gas by Wakefield to C.I.G. from several large tracts of land in this area that Wakefield had under lease. Wakefield dedicated to the aforementioned contract with C.I.G. his interest to the gas produced from the acreage in which he and Sinclair shared a common lease. A certificate authorizing Wakefield to sell the gas produced from the interests that he had dedicated under this contract was issued by the Commission on December 27, 1956, in the proceeding entitled Earl F. Wakefield in Docket No. G–10328 (16 FPC 1475). In May of 1957, Wakefield commenced to make deliveries to C.I.G. pursuant to the aforementioned certificate. The acreage that Wakefield owned jointly with Sinclair remained undeveloped at this time; hence, the deliveries made to C.I.G. pursuant to this certificate were not from production attributable to this acreage. In 1961, Sinclair succeeded to Wakefield's interest in the above-noted common acreage. Sinclair maintains that at that time it was not aware that Wakefield had committed interests in the production from this acreage to C.I.G. It was able, however, to secure releases from C.I.G. of the interests to the production underlying this acreage that had been committed to that company by Wakefield. This acreage was recommitted by Sinclair to C.I.G. under a contract fixing a base price of 17 cents per Mcf. The initial contract between Wakefield and C.I.G. established a base price of 15 cents per Mcf.

It is clear that Sinclair's succession to the Wakefield interest in the acreage that they jointly held was subject to the permanent certificate that was outstanding at the time they acquired the Wakefield interest. The releases secured by Sinclair from C.I.G. cannot terminate or alter the terms of the permanent certificate issued by the Commission to Wakefield in Docket No. G–10328. Accordingly the Motion for Reconsideration filed by Sinclair must be denied.

The Commission finds:

(1) All of the leasehold interests committed to the contract dated March 15, 1956, between Colorado Interstate Gas Company and Earl F. Wakefield, were dedicated to the public as a result of the issuance of a permanent certificate by the Commission to Earl F. Wakefield in Docket No. G–10328 authorizing the sale of natural gas produced under these interests and the subsequent commencement of deliveries in 1957 by Wakefield to Colorado Interstate Gas Company of natural gas produced from said acreage.

(2) The succession by Sinclair Oil & Gas Company to Wakefield's interests in their joint leasehold was subject to Earl F. Wakefield's outstanding certificate issued in Docket No. G–10328 on December 27, 1956.

The Commission orders:

The motion for reconsideration filed by Sinclair Oil & Gas Company in Docket No. CI62–1070 on March 29, 1966 is denied in all respects.

Commissioner Carver *not participating.*

ALABAMA-TENNESSEE NATURAL GAS COMPANY, DOCKET NOS. CP65-197 AND CP66-211

ORDER ADOPTING INITIAL DECISION OF THE PRESIDING EXAMINER

(Issued November 1, 1966)

Syllabus

In a proceeding arising under Section 7 of the Natural Gas Act, Commission *amends* prior order to provide increased deliveries of gas to Ford Motor Company and *issues* certificate of public convenience and necessity authorizing construction and operation of facilities to increase applicant's daily system delivery capacity.

Albert J. Feigen for Alabama-Tennessee Natural Gas Company.

Reuben Goldberg and *Allan Friedson* for City of Florence, Alabama.

Agnes Mae Wilson for the Staff of the Federal Power Commission.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross and John A. Carver, Jr.

On September 29, 1966, the Presiding Examiner, Alvin A. Kurtz, issued an initial decision herein under Section 7 of the Natural Gas Act granting certificates of public convenience and necessity to the Alabama-Tennessee Natural Gas Company for the sale and delivery of additional gas to the Ford Motor Company and for the construction and operation of facilities to increase its daily system delivery capacity to meet present and future demand. No exceptions have been filed to the examiner's decision within the 30-day time period provided in our regulations.

The Commission further finds:

Upon consideration of the entire record in these proceedings, including the evidence adduced, the briefs filed, and the presiding examiner's initial decision, said decision should be adopted as the decision of the Commission in this case.

The Commission orders:

The initial decision of the presiding examiner issued herein on September 29, 1966, is hereby adopted and such decision shall become effective as the decision of the Commission as of the date of issuance of this order.

INITIAL DECISION

OF THE PRESIDING EXAMINER UPON APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY UNDER THE NATURAL GAS ACT

(Issued September 29, 1966)

KURTZ, *Presiding Examiner:* Alabama-Tennessee Natural Gas Company (Applicant) seeks by petition to amend the Commission's order issued April 30, 1965, in Docket No. CP65-197 (33 FPC 905) to authorize the sale of an additional 700 Mcf of gas per day to the Ford Motor Company,[1] and for a certificate of public convenience and necessity in Docket No. CP66-211 to construct and operate additional facilities to increase its daily system delivery capacity by 6,230 Mcf[2] of natural gas to meet its present and future demand.

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[1] No additional facilities are required to enable Applicant to deliver this additional volume of gas.

The petition and application were consolidated for hearing which was held and final briefs were filed August 29, 1966. The City of Florence, Alabama, an intervener, opposes the issuance of a certificate in Docket No. CP66–211 for the construction of facilities on the grounds that the additional facilities are not needed at this time to meet Applicant's requirements. The Staff of the Commission supports Applicant's claimed need for such additional facilities.

Applicant's system extends for a distance of approximately 134 miles from the southern part of the State of Tennessee, across the northeast corner of Mississippi to Huntsville, Alabama. The main line facilities consist of pipe sizes from 12¾ inches to 6⅝ inches and the service laterals ranging in sizes from 8⅝ inches to 2⅜ inches. On this system are two compressor stations, one at Sheffield and another at Decatur, Alabama, with a rated horsepower of 14,000 and 700, respectively. Applicant proposes to install an additional 6⅝ inch lateral of 8.3 miles from its main line to Athens, Alabama, which will parallel the existing 3½ inch line of 8.2 miles now serving Athens, and an additional 350 horsepower compressor unit at its Decatur compressor station and a metering station for delivering gas to Amoco Chemicals Corporation, a new customer. It is estimated that the cost of the additional facilities including $30,000 for intangibles will be $418,000. This cost will be financed from internal sources and bank loans, pending the sale of additional bonds. No change in rates is proposed as a result of this expansion.

The optimum 24 hourly delivery capacity of Applicant's system is 142,070 Mcf, which is sought to be increased to 148,365 Mcf. Applicant states that these rates of flow are required during peak hours to meet a daily demand of 112,340 Mcf and 118,570 Mcf, respectively. Included in the daily demand volumes is 650 Mcf for company use. The proposed increase includes 3,000 Mcf of unallocated capacity available for unanticipated demands and future market requirements. At the time of the hearing, inquiry had been made by two potential industrial customers for 2,000 Mcf of gas per day.

The demands for gas off Applicant's system has steadily increased since its first year of operation in 1950 and it is anticipated the demand for gas in the area served will continue to increase.[3]

The total peak day requirements for 1965, and as projected through 1969, for the present customers plus the Amoco Chemical Corporation are uncontradicted and as follows:

	1965 (Mcf)	1966 (Mcf)	1967 (Mcf)	1968 (Mcf)	1969 (Mcf)
Sales for resale	74, 367	89, 710	92, 120	94, 415	96, 920
Direct sales	18, 800	20, 500	22, 800	22, 800	22, 800
Company use	524	650	650	650	650
Total	93, 691	110, 860	115, 570	117, 865	120, 370

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[2] The Mcf volumes referred to herein are measured at 14.73 psia at 60° Fahrenheit.

[3] The Commission in its Opinion No. 417, 31 FPC 208, relating to the treatment of liberalized depreciation for Federal income taxes, issued February 3, 1964, pointed out that Applicant's Form 2 Annual Reports, on file show that its sales have increased from 9,504,752 Mcf in 1954 to 20,807,306 Mcf in 1962, a substantial growth in demand for its service, and concluded that it was reasonable to assume that the pattern of growth in demand and plant capacity with respect to Applicant will continue for the reasonably foreseeable future.

The annual requirements for 1965 and as projected through 1969 [4] including sales of interruptible gas which are not included in the above peak day requirements are as follows:

	1965 (Mcf)	1966 (Mcf)	1967 (Mcf)	1968 (Mcf)	1969 (Mcf)
Sales for resale	12, 101, 270	12, 914, 200	13, 587, 300	14, 113, 000	14, 581, 200
Direct sales	6, 339, 025	6, 579, 700	6, 814, 000	6, 814, 000	6, 814, 000
Interruptible	4, 564, 669	5, 551, 000	6, 464, 400	6, 464, 400	6, 464, 400
Company use	(19, 976)	25, 000	25, 000	25, 000	25, 000
Total	22, 984, 989	25, 069, 900	26, 890, 700	27, 416, 400	27, 884, 600

The City of Florence, Alabama, a resale customer of Applicant, claims the additional facilities are not required for the 1966–1967 winter season. Florence is concerned about the adverse impact on its cost of gas purchased especially as Applicant competes with Florence for markets through Central Gas Company, a wholly-owned subsidiary. This subsidiary received on April 1, 1965, a certificate of public convenience and necessity from the Alabama Public Service Commission authorizing a connection in Alabama, with Tennessee Gas Pipeline Company for service in Lauderdale County, Alabama, and service commenced in 1966.[5] No service connection exists between Applicant and Central Gas Company.

The basis of Florence's claim is the past three years experience of Applicant in meeting its peak requirements. Florence points out that during the peak day of January 29, 1966, the maximum hourly sendout exceeds by 5.8 percent the average sendout and for the peak day of January 16, 1965, 8.9 percent, and for the peak day of January 13, 1964, 11 percent. On the basis of noncoincidental peak day demands, the composite maximum hourly sendout exceeds the hypothetical average sendout by 7.9 percent for the 1965-1966 winter, 11.4 percent for 1964-1965 winter and 14.7 percent for the 1963-1964 winter. The City also maintains that Applicant has available and uses a flexibility due to line pack in its system to meet hourly variations in sendouts. This flexibility was arrived at by considering Applicant's hourly purchases as compared with the hourly sendouts on the peak day.

According to the engineering witness for Florence, for the coming winter, the highest hourly sales would be 5,486 Mcf against a present 5,920 Mcf per hour capability. Thus he concluded that to meet a daily demand of 118,570 Mcf, Applicant needs a pipeline capacity of 131,664 Mcf. This capacity figure was not reduced by possible use of line pack in meeting the hourly variations as he had not made the required study. Further he made no adjustments to reflect the design mean temperature of 10° Fahrenheit.

Applicant designs its system to meet requirements at a mean temperature 10° Fahrenheit and a maximum hourly flowing capability of 5.3 percent of maximum daily delivery obligations as to resale customers and 5 percent of maximum day delivery obligation as to direct industrial customers. The 5.3 percent of maximum daily delivery obligation for resale customers is a judgment factor and the 5 percent for direct industrial customers is the contract obligation. The resale customers are permitted to purchase 6 percent of their maximum daily contract volume during any hour. The use of the 5.3 percent factor results in a pipeline capacity of 27.2 percent over Applicant's daily maximum obligations, which is the above referred to 148,365 Mcf capacity.

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[4] The estimates of the volumes for future years are based on a degree day deficiency of 3,277. The degree day deficiency for 1965 was 3,147 and in 1963 it was 3,546.

[5] Pursuant to Section 1(c) of the Natural Gas Act, the Commission issued on October 21, 1965, 34 FPC 1183, an order declaring Central Gas Company exempt from the provisions of the Natural Gas Act.

Applicant points out that the peak days of January 29, 1966 and January 16, 1965 occurred on a Saturday and if the same temperature conditions had occurred during a work week, the hourly demands for gas would have required the additional volumes of gas determined by the 5.3 percent factor. During the peak periods that did occur several of the customers' hourly takes did exceed the volumes represented by the 5.3 percent factor. Athens, on January 16, 1965, reached an hourly take of 7.25 percent above the volume 2,014 Mcf taken on that day. In the operation of the system, in addition to the variations in hourly temperatures in the territory served, Applicant has experienced decreased pressures relating to the gas purchased from Tennessee Gas Pipeline Company and an erratic use by Athens of its peak shaving facilities.

At the present time Athens is served by means of a 8.2 mile 3½ inch lateral to meet a daily authorized volume of 2,000 Mcf which volume is proposed to be increased to 2,100 Mcf for this coming winter. It is apparent that the immediate winter demand of Athens could be met by the construction of a smaller lateral than the 6⅝ inch proposed. The demands for gas in Athens are expected to materially increase as a result of the announced plan of the Tennessee Valley Authority to build an Atomic Plant in the area. This will have an effect on industry coming into the area and considering the proposed growth, the 6⅝ inch lateral is justified.

It may be possible for Applicant to meet its demands for this coming winter of the firm customers from existing facilities. However, it does not appear advisable to chance such a close margin. Should the customers call on Applicant to meet the full contract commitments, Applicant would not be in a position to meet their demands. Applicant is faced with the continuing growth in the demand for gas off its system and further increase in capacity will be required in the immediate future to meet its firm demands for gas. Applicant is not faced with the question of idle capacity as approximately 20 percent of its annual sales are made subject to interruption and a market exists for any excess gas that might be available on Applicant's system. Considering the conditions of service that Applicant has experienced and as anticipated, the additional facilities are necessary.

ADDITIONAL FINDINGS AND CONCLUSIONS

Upon consideration of the record and the briefs filed in this proceeding, it is found and concluded in addition to the findings and conclusions heretofore stated that:

(1) Applicant, Alabama-Tennessee Natural Gas Company, a Delaware Corporation having its principal place of business in Florence, Alabama, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of July 2, 1948, in Docket No. G–585 (7 FPC 257).

(2) The facilities described in Applicant's amendment to its application in Docket No. CP66–211 are to be used in the transportation and sale of natural gas in interstate commerce subject to the jurisdiction of the Commission, and the construction and operation thereof and the transportation and delivery of natural gas, as more fully described in the applications in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed in its applications in Docket Nos. CP65–197 and CP66–211 and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The sale and delivery of natural gas as proposed by Applicant in its petition to amend the Commission's order issued on April 30, 1965, in Docket No. CP65-197, and the construction and operation of the facilities proposed by Applicant in its amendment to the application filed in Docket No. CP66-211 on June 14, 1966, are required by the public convenience and necessity and certificates therefor should be issued.

(5) Public convenience and necessity require that the certificates issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c) (3), (c) (4), and (e) of Section 157.20 of said Regulations.

ORDER

WHEREFORE, *It is ordered*, subject to review by the Commission:

(A) Certificates of public convenience and necessity hereby are issued to Alabama-Tennessee Natural Gas Company for the sale and delivery of natural gas to the Ford Motor Company as requested in the petition to amend the order issued in Docket No. CP65-197, and for the construction and operation of the facilities and delivery of gas referred to above and as more fully described in the amended application in Docket No. CP66-211, subject to the terms and conditions of this order.

(B) The general terms and conditions set forth in paragraphs (a), (b), (c)(3), (c)(4), and (e) of Section 157.20 of the Commission's Regulations under the Natural Gas Act shall attach to this issuance of the certificates to Alabama-Tennessee Natural Gas Company.

(C) The construction authorized in Docket No. CP66-211 shall be completed within six months from the date of the issuance of this certificate.

ALVIN A. KURTZ,
Presiding Examiner.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

EL PASO NATURAL GAS COMPANY, DOCKET NO. CP67-45

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued November 1, 1966)

On August 25, 1966, El Paso Natural Gas Company (Applicant) filed in Docket No. CP67-45 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continued operation of certain existing facilities which are presently being used in the sale and delivery of natural gas to Citizens Utilities Company (Citizens) in the Nogales, Arizona area, all as more fully set forth in the application.

Pursuant to the authority granted by the Commission in Docket Nos. G-1051 and G-1079 on September 10, 1948, 7 FPC 908, and in Docket No. G-11560 on May 14, 1957, 17 FPC 681, Applicant sells and delivers natural gas to Citizens for resale and distribution in the Nogales, Arizona area. Such sales and deliveries are made at the outlet of Applicant's Nogales meter station, situated at the terminus of Applicant's Nogales lateral, and were first initiated on December 21, 1948. Thereafter, by terms of a Gas Sales Agreement dated March 22, 1949, Applicant agreed to sell and deliver natural gas to Citizens for use in the operation of its electric generating plant situated near Nogales, Arizona. In order to effectuate such sale and delivery, Applicant constructed, and on May 23, 1949, placed in operation, a meter station at a point approximately 3,200 feet upstream of the terminus of the Nogales lateral. To receive the volumes of gas to be delivered under said agreement, Citizens constructed and placed in operation approximately 1.3 miles of 4-inch O.D. feeder line extending from Applicant's power plant meter station to the site of Citizens' said power plant.

Applicant has been made aware of the fact that construction and operation of the meter station serving Citizens' power plant were undertaken without certificate authorization. Moreover, Applicant has recently been informed that, subsequent to initiation of the power plant deliveries, Citizens installed a distribution lateral extending from its power plant feeder line and commenced the sale of gas to consumers in the Nogales area. In consequence of these matters, Applicant seeks certificate authorization for the continued operation of the plant meter station.

Applicant proposes to continue the sale of gas for use in Citizens' power plant and the sale of gas for resale by Citizens from its power plant feeder line. Applicant's present service agreement limits resale volumes to Citizens to 2,760 Mcf of gas per day. The related industrial contract presently on file specifies power plant deliveries of 700 Mcf of gas per day. Applicant estimates future peak day requirements of the power plant to be 814 Mcf.

Applicant proposes no change in rates. It will continue to sell gas to Citizens, under its Rate Schedules A-1 and B-1 for resale.

The total original cost of the subject power plant meter station was $3,701.20 and the corresponding accumulated reserve for depreciation was $1,929.07 as of December 31, 1965.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed herein.

At a hearing held on October 27, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, El Paso Natural Gas Company, a Delaware corporation with its principal place of business in El Paso, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of October 29, 1942, in Docket Nos. G-242 and G-257 (3 FPC 851).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (e), and (f) of Section 157.20 of such Regulations.

(6) The certificate hereinafter issued should be conditioned upon the filing by Applicant of a revised service agreement with Citizens reflecting the subject delivery point.

(7) Deliveries of natural gas to Citizens for electric power generation should be limited to 814 Mcf per day.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, El Paso Natural Gas Company, authorizing the continued operation of the existing facilities hereinbefore described, as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e), and (f) of Section 157.20 of such Regulations.

(C) The certificate issued by paragraph (A) above is conditioned upon the filing by Applicant of a revised service agreement with Citizens reflecting the subject delivery point.

(D) The certificate issued by paragraph (A) above is further conditioned upon the limitation of deliveries of natural gas to Citizens for electric power generation to 814 Mcf per day.

(E) This certificate shall not entitle the industrial customer to whom firm deliveries are authorized herein, to any priorities to additional gas for meeting any future increases in its requirements at the expense of firm resale customers desiring additional gas to meet any future increase in their requirements.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

LONE STAR GAS COMPANY, DOCKET NO. CP67-56

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued November 1, 1966)

On September 7, 1966, Lone Star Gas Company (Applicant), filed in Docket No. CP67-56 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities, extending its existing system for the transportation of natural gas, to the city gates of the City of Avery and the Town of Annona in Red River County, Texas, all as more fully set forth in the application.

Applicant proposes the construction and operation of (1) approximately 16.2 miles of 3-inch transmission line E-30 extending from Line E in a southeasterly direction to a city gate measuring station to be installed near the City of Avery; and (2) approximately 50 feet of 3-inch Line E-30-1 extending from a point on proposed Line E-30 in a southeasterly direction to a city gate measuring station to be installed near the Town of Annona.

Applicant proposes to construct and operate natural gas distribution systems in both Annona and Avery for which franchises have been obtained. The estimated third year peak day and annual requirements for Annona are 193 Mcf and 10,585 Mcf, respectively, and for Avery are 305 Mcf and 16,483 Mcf, respectively.

Applicant estimates the approximate cost of natural gas pipeline transmission facilities at $134,213, the city gate measuring stations at $4,704, and the two local distribution systems at $79,000, all of which will be financed from working capital.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on October 27, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits submitted in support of the authorizations sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, Lone Star Gas Company, a Texas corporation having its principal place of business in Dallas, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of April 11, 1944, in Docket No. G-442 (4 FPC 565).

(2) The proposed construction and operation of facilities by Applicant as hereinbefore described, and as more fully described in the application and exhibits in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid construction and operation of facilities are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

The Commission orders.

(A) A certificate of public convenience and necessity is issued to the Applicant in this proceeding authorizing the construction and operation of facilities as more fully described in the application and exhibits in this proceeding, subject to the jurisdiction of the Commission, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), (f), and (g) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be completed and placed in actual operation, as provided by paragraph (b) of Section 157.20 of the aforesaid Regulations within 12 months of the date on which this order issues.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

MISSISSIPPI RIVER TRANSMISSION CORPORATION, DOCKET NO. G-18686

ORDER FURTHER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued November 1, 1966)

On August 31, 1966, Mississippi River Transmission Corporation (Petitioner), filed in Docket No. G-18686 a petition to amend the order issued in the instant docket on June 30, 1959, 21 FPC 917, by authorizing Petitioner to deliver for sale natural gas on both firm and interruptible basis to Armour Agricultural Chemical Company (Armour), an existing direct sale customer of Petitioner now only receiving interruptible service, all as more fully set forth in the petition to amend.

Pursuant to the Commission's order issued June 30, 1959, in the instant proceeding to Petitioner's predecessor in interest, Mississippi River Fuel Corporation, Petitioner is presently authorized to transport for sale to Armour, for use in its commercial plant near Crystal City, Missouri, a daily average of up to 13,000 Mcf of natural gas on an interruptible basis. Armour has requested the delivery henceforth of 8,400 Mcf per day of its supply on a firm basis, this quantity representing the approximate portion of its total natural gas requirements utilized as raw material. Armour and Petitioner have entered into a letter agreement dated August 17, 1966, providing for new firm and interruptible gas contracts, with the firm contract calling for a contract demand of 8,400 Mcf per day and the interruptible contract for an estimated daily maximum of 6,600. The 15,000 Mcf aggregate quantity in the proposed contracts reflects that on individual days total plant requirements may exceed 13,000 Mcf, but that as in the past, average daily deliveries over a contract year will not exceed 13,000 Mcf.

Petitioner states that no additional facilities are required by Applicant in order to effectuate the instant proposal.

Due notice of the filing of the application to amend and exhibits thereto and opportunity for hearing thereon has been given by publication in the Federal Register on September 14, 1966 (31 F.R. 12029). No protest or petition to intervene has been filed in this proceeding concerning this amendment.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's order issued June 30, 1959, in Docket No. G-18686 be amended as hereinafter ordered.

The Commission orders:

(A) The Commission's order issued June 30, 1959, in Docket No. G-18686 is amended so as to authorize Petitioner to transport and deliver to Armour and Company up to 8,400 Mcf daily on a firm basis and up to 6,600 Mcf daily on an interruptible basis with total deliveries over the contract year limited to a daily average of 13,000 Mcf.

(B) The amended authorization issued by paragraph (A) above shall not entitle the industrial customer to whom firm deliveries are authorized herein to any priorities or rights to additional gas for meeting any future increases in its requirements at the expense of firm resale customers desiring to acquire additional gas to meet any future increases in its requirements.

(C) In all other respects said order shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

NATURAL GAS PIPELINE COMPANY OF AMERICA,
DOCKET NO. CP67-42

FINDINGS AND ORDER AFTER STATUTORY HEARING PERMITTING AND APPROVING ABANDONMENT OF FACILITIES AND ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued November 1, 1966)

On August 24, 1966, Natural Gas Pipeline Company of America (Applicant), filed in Docket No. CP67-42 an application pursuant to Sections 7(c) and 7(b) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of new sales facilities on Applicant's existing Sycamore branch lines for the continuation of deliveries of gas to Northern Illinois Gas Company's (Northern Illinois) DeKalb-Sycamore, Illinois market area, and authorization for the abandonment of the existing facilities now used for deliveries to said market area, all as more fully set forth in the application.

Applicant proposes to abandon existing metering facilities, and to abandon by sale to Northern Illinois 1.10 miles of the Sycamore Branch 6-inch and 10-inch pipelines and to construct and operate a new measuring and regulating station 1.10 miles upstream from the existing station, all in the DeKalb-Sycamore, Illinois market area.

The application states that the metering facilities must be replaced in order to measure the increasing volumes required by the DeKalb-Sycamore area and residential growth enveloping the area traversed by the pipelines. Northern Illinois will operate the pipelines as part of its distribution system.

The estimated cost of Applicant's proposed construction of delivery facilities is $35,000, which cost will be met from funds on hand. The pipelines will be sold to Northern Illinois at the depreciated book cost at the time of sale.

After due notice, no petition to intervene, notice of intervention or protest has been filed herein.

At a hearing held on October 27, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Natural Gas Pipeline Company of America, a Delaware corporation having its principal place of business in Chicago, Illinois, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of October 13, 1942, in Docket No. G-235 (3 FPC 830).

(2) The proposed construction and operation of facilities by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The proposed construction and operation of facilities by Applicant are required by the public convenience and necessity, and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) The facilities to be abandoned, as hereinbefore described, and as more fully described in the application in this proceeding, are used in the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission, and abandonment of such facilities is subject to the requirements of Subsection (b) of Section 7 of the Natural Gas Act.

(6) The abandonment by Applicant, as hereinbefore described, is permitted by the public convenience and necessity and an order approving same should be issued as hereinafter ordered.

(7) Public convenience and necessity require that the certificate hereinafter issued and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, Natural Gas Pipeline Company of America, authorizing the construction and operation of facilities as hereinbefore described, and as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), (f), and (g) of such Regulations.

(C) The facilities authorized shall be constructed and placed in actual operation as provided by paragraph (b) of Section 157.20 of the aforesaid Regulations, by January 1, 1967.

(D) Permission for and approval of the abandonment by Applicant of the facilities hereinbefore described, as more fully described in the application in this proceeding, are granted.

(E) Applicant shall advise the Commission of the date of abandonment of said facilities within 10 days thereof.

(F) The subject sale of facilities to Northern Illinois shall be recorded in accordance with the provisions of Gas Plant Instruction 5, and the text of Account 102, Gas Plant Purchased or Sold, of the Uniform System of Accounts prescribed for Natural Gas Companies.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

NATURAL GAS PIPELINE COMPANY OF AMERICA, DOCKET NO. CP67-66

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued November 1, 1966)

On September 19, 1966, Natural Gas Pipeline Company of America (Applicant) filed in Docket No. CP67-66 an application pursuant to Section 7(c) of the Natural Gas Act, as implemented by Section 157.7(b) of the Regulations under the Act, for a certificate of public convenience and necessity authorizing the construction during the calendar year 1967 and the operation of miscellaneous gas purchase facilities to enable Applicant to take into its certificated main pipeline system natural gas which will be purchased from producers thereof, all as more fully set forth in the application in this proceeding.

The purpose of this "budget-type" application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system new supplies of natural gas in various producing areas located in the vicinity of said system.

The total cost of facilities covered by this application will not exceed a maximum of $2,000,000, with no single project to exceed a cost of $500,000, which costs are proposed to be financed out of funds on hand.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on October 27, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein and upon consideration of the record,

The Commission finds:

(1) Applicant, Natural Gas Pipeline Company of America, a Delaware corporation having its principal place of business in Chicago, Illinois, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of October 13, 1942, in Docket No. G-235 (3 FPC 830).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Applicant should submit within 60 days after the expiration of the authorization granted hereinafter, a statement in compliance with Section 157.7(b)(3) of the Commission's Regulations under the Natural Gas Act.

(6) Public convenience and necessity require that the certificate hereinafter issued and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e), (f) and (g) of Section 157.20 of said Regulations.

(7) The authorization hereinafter granted should be limited to construction during the calendar year 1967 and the total expenditures for facilities to be constructed thereunder should be limited to a maximum of $2,000,000, with no single project to exceed a cost of $500,000.

The Commission orders:

(A) Upon the terms and conditions of this order, a certificate of public convenience and necessity is issued authorizing Applicant, Natural Gas Pipeline Company of America, to construct during the calendar year 1967, the proposed facilities hereinbefore described, as more fully described in the application in this proceeding, and to operate such facilities only to take natural gas supplies from producers who have received authorization from the Commission to sell natural gas to said Applicant.

(B) Applicant shall submit within 60 days after the expiration of the authorization granted by paragraph (A) above a statement in compliance with Section 157.7(b)(3) of the Commission's Regulations under the Natural Gas Act.

(C) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e), (f) and (g) of Section 157.20 of said Regulations.

(D) The authorization granted in paragraph (A) above is limited to construction during the calendar year 1967, and the total expenditures for facilities to be constructed thereunder are limited to a maximum of $2,000,000, with no single project to exceed a cost of $500,000.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

NORTHERN NATURAL GAS COMPANY, DOCKET NO. CP67-65

FINDINGS AND ORDER AFTER STATUTORY HEARING PERMITTING AND APPROVING ABANDONMENT OF FACILITIES AND ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued November 1, 1966)

On September 16, 1966, Northern Natural Gas Company (Applicant) filed in Docket No. CP67-65 an application pursuant to Sections 7(b) and 7(c) of the Natural Gas Act for permission and approval to abandon certain natural gas facilities and for a certificate of public convenience and necessity authorizing the construction and operation of other natural gas facilities in order to establish a new delivery point for the delivery of natural gas by Applicant to Central Natural Gas Company (Central) for resale and distribution in Vermillion, South Dakota (Vermillion), all as more fully set forth in the application.

Specifically, Applicant proposes to abandon and remove approximately 0.42 mile of 4-inch branchline and to relocate the town border station presently serving Vermillion. Applicant further proposes to construct a new town border station for Vermillion on Applicant's 6-inch and 8-inch Yankton, South Dakota branchline, approximately 0.42 mile north and 0.25 mile east of the existing town border station.

There will be no change in the presently authorized contract demand of 2,100 Mcf of gas per day for service to Vermillion.

Construction of the proposed new town border station is required by commercial and residential development in the area of the present station and will also enable Central to readily interconnect its pipeline supply with its new peak shaving plant.

The total estimated cost of Applicant's proposed project is $22,290, of which Central will finance $7,000, and Applicant the remainder.

After due notice, no petition to intervene, notice of intervention or protest has been filed herein.

At a hearing held on October 27, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Northern Natural Gas Company, a Delaware corporation with its principal place of business in Omaha, Nebraska, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of April 6, 1943, in Docket No. G–280 (3 FPC 967).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) The proposed abandonment of facilities by Applicant is subject to the provisions of Subsection (b) of Section 7 of the Natural Gas Act.

(6) The proposed abandonment of facilities by Applicant is permitted by the public convenience and necessity, and approval therefor should be granted as hereinafter ordered and conditioned.

(7) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(3), (c)(4), (e), (f), and (g) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, Northern Natural Gas Company, authorizing construction and operation of the facilities hereinbefore described, as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(3), (c)(4), (e), (f), and (g) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be constructed and placed in actual operation, as provided by paragraph (b) of Section 157.20 of the Regulations under the Natural Gas Act, by January 1, 1967.

(D) Permission for and approval of the proposed abandonment of facilities by Applicant are granted.

(E) Applicant shall advise the Commission of the date of the abandonment of said facilities within 10 days thereof.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

CUMBERLAND AND ALLEGHENY GAS COMPANY, DOCKET NO. CP67-63

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued November 4, 1966)

On September 13, 1966, Cumberland and Allegheny Gas Company (Applicant), filed in Docket No. CP67-63 an application pursuant to Section 7(c) of the Natural Gas Act for an order of the Commission authorizing the construction and operation of facilities to transport volumes of natural gas in interstate commerce, all as more fully set forth in the application.

Applicant requests authority to construct and operate a main line tap on Transmission Line No. 8000 in McCoole District No. 31, Allegany County, Maryland. Applicant also seeks authority to construct and operate approximately 2.3 miles of 6-inch gas pipeline which will extend from the above-mentioned tap to a point near Keyser in New Creek District, Mineral County, West Virginia, for the purpose of serving the retail natural gas requirements of Keyser Industrial Park and to provide reliable service to meet existing and anticipated expanding future requirements of Applicant's distribution system in the area of Keyser, West Virginia.

Keyser Industrial Park, near Keyser, West Virginia, is being promoted by State and County Agencies as an attractive site for industrial development. Flex-O-Lite Manufacturing Corporation, a subsidiary of General Steel Industries, is building a plant in Keyser Industrial Park. The estimated peak day and annual requirements for the first three years of operation of this plant are:

	1st year	2d year	3d year
Peak day (Mcf)	600	800	1,000
Annual (Mcf)	172,000	223,000	273,000

The total estimated cost of the proposed facilities is $98,000 which cost will be financed by the sale of bonds and/or common stock to Applicant's parent company, The Columbia Gas System, Inc.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application and amendment has been filed.

At a hearing held on November 3, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits submitted in support of the authorization sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, Cumberland and Allegheny Gas Company, a West Virginia corporation having its principal place of business in Pittsburgh, Pennsylvania, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order issued January 5, 1966, in Docket No. G-387 (4 FPC 472).

(2) The proposed construction and operation of facilities, and the transportation of natural gas in interstate commerce, as hereinbefore described and as more fully described in the application and exhibits filed in this proceeding, are sub-

ject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed construction and operation of facilities and the transportation of natural gas are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), (f), and (g) of Section 157.20 and Section 155.1 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant authorizing the construction and operation of facilities and the transportation of natural gas in interstate commerce, as hereinbefore described, all as more fully described in the application and exhibits filed in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), (f), and (g) of Section 157.20 and Section 155.1 of such Regulations.

(C) The facilities authorized by paragraph (A) above shall be completed and placed in operation by January 1, 1967.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

EL PASO NATURAL GAS COMPANY, DOCKET NO. CP67-74

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued November 4, 1966)

On September 21, 1966, El Paso Natural Gas Company (Applicant), filed in Docket No. CP67-74 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities necessary to augment the capacity of existing facilities utilized for the receipt and transportation of gas in the Wassom area Yoakum County, Texas, all as more fully set forth in the application.

Applicant proposes to construct and operate (1) 1.1 miles of 20-inch O.D. pipeline, (2) 0.6 mile of 10¾-inch O.D. discharge pipeline extending to a point on Applicant's Permian-San Juan Crossover Line about 3.5 miles downstream from Plains Compressor Station, (3) one additional 3,400 horsepower reciprocating compressor unit in Applicant's Wassom Compressor Station, (4) a new 33,000 Mcf per day dehydration plant, metering, purification and appurtenant facilities.

The total estimated cost of Applicant's proposed construction is $3,010,559, and will be financed out of working funds.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on November 3, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, El Paso Natural Gas Company, a Delaware corporation having its principal place of business in El Paso, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of October 29, 1942, in Docket Nos. G-242 and G-257 (3 FPC 851).

(2) The proposed construction and operation of facilities, as hereinbefore described, and as more fully described in the application and exhibits in this proceeding are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed construction and operation of facilities is required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon El Paso's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (3)(4), (e), (f), and (g) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to the Applicant, El Paso Natural Gas Company, in this proceeding authorizing the construction and operation of facilities, as hereinbefore described and as more fully described in the application and exhibits herein, subject to the jurisdiction of the Commission, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), (f), and (g) of Section 157.20 of such Regulations.

(C) The facilities authorized to be constructed and operated by Applicant shall be completed and placed in actual operation, as provided by paragraph (b) of Section 157.20 of the aforesaid Regulations within 6 months of the date on which this order issues.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

IDAHO POWER COMPANY, DOCKET NO. E-7309

ORDER AUTHORIZING ISSUANCE OF PROMISSORY NOTES

(Issued November 4, 1966)

Idaho Power Company (Applicant), an electric utility incorporated under the laws of the State of Maine and qualified to do business in the States of Idaho, Oregon and Nevada, filed an application on September 8, 1966, with the Federal Power Commission seeking an order pursuant to Section 204 of the Federal Power Act authorizing it to make short-term borrowings of up to an aggregate of $40,000,000.

Applicant proposes to issue new and/or renewal notes from time to time before or on December 31, 1967. The notes are expected to have maturities of six months from dates of issuance, with no maturities of over one year. These notes will evidence bank loans which Applicant represents will be at the current rate of interest applicable in New York, New York, at the time of borrowings for commercial bank loans of said form and character. No finder's fee or other fee, commission or remuneration is to be paid in connection therewith to any third person for negotiating the transactions.

The new notes are to be issued to furnish temporary, interim capital for the Applicant's construction program for the last half of 1966 and for 1967. This program has an estimated cost of $58,683,000, of which $34,506,000 will be for continuation of work on the Hells Canyon Development, $7 million for transmission lines, and $2.4 million for transmission substations. Although the Applicant has requested authorization to issue up to $40,000,000 notes outstanding at any one time, it has estimated that the maximum amount of notes to be outstanding at any one time will not exceed $32,000,000, assuming the issuance of additional fixed capital securities. However, should market or other conditions cause a delay in or postponement in long-term or permanent financing, the Applicant has stated that it may find it necessary to issue short-term notes up to the full amount of $40,000,000, in order to avoid delay and additional cost in the construction of new service facilities.

Written notice of the application has been given to the Idaho Public Utilities Commission, the Nevada Public Service Commission and the Oregon Public Utility Commissioner and to the Governor of each of those States. Notice has also been given by publication in the Federal Register on September 24, 1966 (31 F.R. 12618), stating that any person desiring to be heard or to make any protest with reference to the application, shall file petitions or protests on or before October 5, 1966, with the Federal Power Commission, Washington, D.C. 20426. No protest, petition or request to be heard in opposition to the granting of the application has been received. The Idaho Public Utilities Commission has issued an order authorizing this proposed issuance of short-term notes.

The Commission finds:

(1) Applicant, a corporation, is a public utility within the meaning of Section 204 of the Federal Power Act, subject to the jurisdiction of the Commission as heretofore described and set forth in the Commission's order issued November 7, 1957, *Idaho Power Company*, Docket No. E-6781 (18 FPC 603).

(2) The proposed issuance of Promissory Notes in the aggregate principal amount of $40,000,000, all as described above, will constitute an issuance of securities within the purview of Section 204 of the Act.

(3) The proposed issuance of Promissory Notes in the aggregate principal amount of $40,000,000, all as described above, will be in excess of 5% of the par value of the other securities of Applicant, and, therefore, will not be exempt by virtue of Section 204(e) from the requirements of Section 204(a) of the Act.

(4) Applicant is not organized and operating in a State, under the laws of which the issue here involved is regulated by a State Commission within the meaning of Section 204(f) of the Act, and the proposed issuance is, therefore, not exempt by virtue of that Section from the requirements of Section 204 of the Act.

(5) The proposed issuance of Promissory Notes will be exempt from the competitive bidding requirements of Section 34.1a of the Commission's Regulations under the Federal Power Act by reason of paragraph 34.1a(a)(2).

(6) The proposed issuance of securities, as hereinafter authorized, will be for a lawful object, within the corporate purposes of Applicant and compatible with the public interest, which is appropriate for and consistent with the proper performance of service by Applicant as a public utility, and which will not impair its ability to perform that service, and is reasonably necessary and appropriate for such purposes.

(7) The period of public notice given in this matter is reasonable.

The Commission orders:

(A) The proposed issuance of Promissory Notes in the aggregate principal amount of $40,000,000 outstanding at any one time, whether an original issue or a renewal note, upon the terms and conditions and confined to the purposes set forth in the application, all as described above, is hereby authorized, subject to the provisions of this order.

(B) This authorization is expressly conditioned upon the issuance of all notes to be issued being not later than December 31, 1967, and the final maturity of said notes being not later than December 31, 1968.

(C) The foregoing authorization is without prejudice to the authority of this Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates or determinations of cost or any other matter whatsoever now pending or which may come before this Commission.

(D) Nothing in this order shall be construed to imply any guarantee or obligation on the part of the United States in respect to any security to which this order relates.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

KENTUCKY GAS TRANSMISSION CORPORATION, DOCKET NO. CP67-82

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued November 4, 1966)

On September 26, 1966, Kentucky Gas Transmission Corporation (Applicant) filed in Docket No. CP67-82 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities for the sale and delivery of natural gas to Columbia Gas of Kentucky, Inc. (Columbia of Kentucky), for resale and distribution in the Town of Cannonsburg and environs, Boyd County, Kentucky, all as more fully set forth in the application.

Specifically, Applicant seeks authority to construct and operate a tap, measuring, and regulating facilities on its 20-inch gas transmission line in Boyd County, Kentucky, for the wholesale sale of natural gas to Columbia of Kentucky.

The estimated third year annual and peak day deliveries of natural gas to Columbia of Kentucky through the proposed facilities are 26,000 Mcf and 270 Mcf, respectively. Said natural gas service will be rendered under Applicant's FPC Rate Schedule CDS–1.

The total estimated cost of Applicant's proposed facilities is $8,400, which cost will be financed from cash on hand.

After due notice, no protest, petition to intervene or notice of intervention has been filed herein.

At a hearing held on November 3, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Kentucky Gas Transmission Corporation, a Delaware corporation having its principal place of business in Charleston, West Virginia, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of August 10, 1956, in Docket No. G–9689 (16 FPC 437).

(2) The facilities hereinbefore described and as more fully described in the application in this proceeding are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof and the transportation and sale of natural gas by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities and the transportation and sale of natural gas by Applicant are required by the public convenience and necessity, and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate hereinafter issued and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(3), (c)(4), (e), (f), and (g) of Section 157.20 of said Regulations.

(6) The certificate hereinafter issued should be conditioned upon Applicant's filing with the Commission an appropriate revised service agreement with Columbia of Kentucky in accordance with the Commission's Regulations under the Natural Gas Act.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Kentucky Gas Transmission Corporation authorizing the construction and operation of the facilities and the transportation and sale of natural gas as hereinbefore described and as more fully set forth in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c) (3), (c) (4), (e), (f), and (g) of Section 157.20 of said Regulations.

(C) The facilities authorized shall be completed and placed in actual operation and the transportation and sale of natural gas authorized in paragraph (A) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act by January 1, 1967.

(D) The certificate issued by paragraph (A) above is conditioned upon Applicant's filing with the Commission an appropriate revised service agreement with Columbia of Kentucky in accordance with the Commission's Regulations under the Natural Gas Act.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

TEXAS EASTERN TRANSMISSION CORPORATION, DOCKET NO. CP64-5 (PHASE I)* AND ALGONQUIN GAS TRANSMISSION COMPANY, DOCKET NO. CP67-36

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND ORDER FURTHER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND ACCEPTING SERVICE AGREEMENTS FOR FILING

(Issued November 4, 1966)

On August 17, 1966, Texas Eastern Transmission Corporation (Texas Eastern) filed in Docket No. CP64-5 (Phase I) a motion to amend further the Commission's order issued December 19, 1963, 30 FPC 1559, in said docket, as amended, by authorizing Texas Eastern to sell, on a firm basis and by means of existing authorized facilities, additional quantities of natural gas to existing customers, all as more fully set forth in the subject motion to amend further.

Specifically, Texas Eastern proposes to sell and deliver the following additional quantities of natural gas:

Customer	Daily volumes in Mcf—14.73 psia	
	Annual service	Winter service
Algonquin Gas Transmission Company	7,344	1,025
Central Illinois Public Service Company	320	
Indiana Gas and Water Company, Inc	253	441
New Jersey Natural Gas Company	3,060	6,120
Subsidiaries of Penn Fuel Gas, Inc.:		
Huntingdon Gas Company		561
Lewistown Gas Company		1,071
Pottsville Gas Company		2,805
Shippensburg Gas Company		357
Twin Gas Company		274
Total	10,977	12,654

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*By order issued October 28, 1966, in Docket No. CP66-347, *et al.*, 36 FPC 792, the Commission severed that portion of the subject motion to amend in Docket No. CP64-5 requesting authorization to sell an additional 30,601 Mcf of natural gas per day to The Manufacturers Light and Heat Company and consolidated the same with the proceedings in Docket No. CP66-347, *et al.* Accordingly, the instant order pertains solely to the remaining proposals not severed by the order of October 28, 1966.

Texas Eastern filed, on September 29, 1966 and October 11, 1966, superseding service agreements covering the proposed sales as described and set forth above.

On September 20, 1966, Pennsylvania Gas and Water Company filed a petition to intervene in this proceeding and a motion to consolidate the instant motion to amend with the proceedings in Docket No. CP66-347. In view of the action taken by the Commission in its order of October 28, 1966, in Docket No. CP66-347, *et al.*, no further action on said petition appears necessary in the instant order.

Due notice of the filing of the motion to amend further and opportunity for hearing thereon has been given by publication in the Federal Register on August 31, 1966 (31 F.R. 11506. No protest or other petition to intervene has been filed in this proceeding.

On August 17, 1966, Algonquin Gas Transmission Company (Algonquin) filed in Docket No. CP67-36 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery, on a firm basis and by means of existing authorized facilities, additional quantities of natural gas to certain existing customers, all as more fully set forth in the application in this proceeding.

Specifically, Algonquin proposes to sell and deliver the following quantities of natural gas:

Customer	Daily volumes—Mcf @ 14.73 psia	
	Rate schedule F-1	Rate schedule WS-1
The Connecticut Gas Company	4,900	
North Attleboro Gas Company	40	140
Providence Gas Company	2,500	
New Bedford Gas and Edison Light Company		750
Newport Gas Light Company		210
Norwood Gas Company		(124)
Total	7,440	976

On October 26, 1966, Algonquin filed superseding service agreements reflecting the above volumes.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application in Docket No. CP67-36 has been filed.

At a hearing held on November 3, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought in Docket No. CP67-36, and upon consideration of the record,

The Commission finds:

(1) Applicant, Algonquin Gas Transmission Company, a Delaware corporation having its principal place of business in Boston, Massachusetts, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of February 26, 1951, in Docket No. G-1319 (10 FPC 35).

(2) The proposed sales and transportation of natural gas hereinbefore described, as more fully described in the application in Docket No. CP67-36, will be in interstate commerce, subject to the jurisdiction of the Commission, and such proposed sales and transportation by Algonquin are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Algonquin is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The proposed sales and transportation of natural gas by Algonquin are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Algonquin's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(3), and (e) of Section 157.20 of such Regulations.

(6) The superseding service agreements tendered for filing by Algonquin on October 26, 1966 should be accepted for filing to become effective on the date this order issues.

(7) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's order issued December 19, 1963, in Docket No. CP64–5, as amended, be further amended as hereinafter ordered.

(8) The superseding service agreements tendered for filing by Texas Eastern on September 29, 1966 and October 11, 1966, should be accepted for filing to become effective on the date this order issues.

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Applicant, Algonquin Gas Transmission Company, to sell and deliver natural gas as hereinbefore described, all as more fully described in the application in Docket No. CP67–36, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Algonquin's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(3), and (e) of Section 157.20 of such Regulations.

(C) The proposed sales and delivery of natural gas, authorized in paragraph (A) above, shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act within 6 months from the date on which this order issues.

(D) The superseding service agreements tendered for filing by Algonquin on October 26, 1966, are accepted for filing to become effective on the date this order issues.

(E) The Commission's order issued December 19, 1963, in Docket No. CP64–5, as amended, is further amended by authorizing Texas Eastern to sell and deliver additional quantities of natural gas to existing customers, all as hereinbefore described and as set forth in the motion to amend further.

(F) In all other respects the order of December 19, 1963, as amended, shall remain in full force and effect.

(G) The superseding service agreements tendered for filing by Texas Eastern on September 29, 1966 and October 11, 1966, are accepted for filing to become effective on the date this order issues.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

TEXAS GAS TRANSMISSION CORPORATION, DOCKET NO. CP67-71

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued November 4, 1966)

On September 19, 1966, Texas Gas Transmission Corporation (Applicant), filed an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction of facilities in Haywood County, Tennessee, for the transportation and sale of natural gas in interstate commerce for resale, all as more fully set forth in the application.

Applicant proposes to construct and operate one side valve and a positive meter in Haywood County, Tennessee, which will establish a new delivery point for an existing customer, the City of Brownsville, Tennessee (Brownsville), for resale in the community of Providence, Haywood County, Tennessee (Providence).

The estimated annual and peak day requirements for Providence in the third year are 1,800 Mcf and 20 Mcf, respectively. The application states that no increase in the Contract Demand of Brownsville is proposed for this service.

The total estimated cost of the proposed facilities is $2,470, which cost will be financed from cash on hand.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application, has been filed.

At a hearing held on November 3, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, Texas Gas Transmission Corporation, a Delaware corporation having its principal place of business in Owensboro, Kentucky, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of March 30, 1948, in Docket No. G-855 (7 FPC 213).

(2) The proposed construction and operation of facilities, and the sale of natural gas in interstate commerce, as hereinbefore described and as more fully described in the application, filed in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed construction and operation of facilities, and the sale of natural gas in interstate commerce are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a),

(b), (c)(1), (c)(3), (c)(4), (e), (f), and (g) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, Texas Gas Transmission Corporation, authorizing the construction and operation of facilities, and the sale of natural gas as hereinbefore described, all as more fully described in the application, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), (f), and (g) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be completed and placed in actual operation, and the sale of natural gas authorized in paragraph (A) above shall commence as provided in paragraph (b) of Section 157.20 of the aforesaid Regulations within 3 months of the date on which this order issues.

(D) Applicant shall file pursuant to Part 154 of the Commission's Regulations an acceptable revised service agreement reflecting the terms and conditions of sale and delivery at the new delivery point to the City of Brownsville, Tennessee.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

UNITED STATES DEPARTMENT OF THE INTERIOR, BONNEVILLE POWER ADMINISTRATION, DOCKET NO. E-7313

ORDER CONFIRMING AND APPROVING RATE SCHEDULE

(Issued November 4, 1966)

On September 15, 1966, the Assistant Secretary of the Interior acting on behalf of the Bonneville Power Administration (Bonneville) pursuant to the Bonneville Act (50 Stat. 731), as amended, filed with the Commission a request for approval of the rate to be charged the Kaiser Aluminum and Chemical Corporation and 13 other industries for the sale of power generated at Federal plants by the use of additional water which has been stored in Kootenay Lake in Canada. The release of this additional stored water and the sale to the 14 industries of power generated therewith at Federal plants in the United States are to be made during the period from September 1, 1966, through March 31, 1967.

Kootenay Lake is a natural lake with storage control facilities on the Kootenay River in British Columbia, Canada, just north of the border with Idaho. The West Kootenay Power and Light Company operates a hydroelectric plant at the Corra Linn dam and regulates the outflow from Kootenay Lake. The regulated outflow joins the Columbia River a short distance below Lower Arrow Lake and is used to generate power at the several Federal and non-Federal downstream hydroelectric plants along the Columbia River.

The Kaiser Aluminum and Chemical Company, together with the 13 other industries, has made arrangements with the West Kootenay Power and Light Company and its parent company, Cominco, Ltd., for raising the elevation of Kootenay Lake about two feet so as to store 445,500 acre-feet of water additional to the amount of storage that is normally permitted (607,400 acre-feet). This arrangement was made because of an anticipated water shortage in the Columbia

River basin during the fall and winter of 1966–67, and thereby to avoid an interruption in the power supply of the 14 parties.

The additional storage was approved by the International Joint Commission in its order signed August 12, 1966. The Assistant Secretary reports that these arrangements will cost the industries in excess of $150,000. Under the terms of the Power Sales Contract between Bonneville and the 14 industries, Bonneville will sell to the industries the energy generated at the downstream Federal plants with water released from the additional storage. The amount of this energy for the two feet of storage amounts to 296,445,000 kilowatt-hours. Deliveries will be made during the period of September 1, 1966, through March 31, 1967.

Although the energy to be generated with the additional stored water will be supplied on a firm basis during the specified period, Bonneville's contract with the 14 industries provides that the rates to be charged be the same as that specified for interruptible power in each purchasers' existing primary power sales contract with Bonneville. These rates are $1.45 per kilowatt-month for transmission system deliveries and $1.20 per kilowatt-month for at-site deliveries.

The Assistant Secretary states that while these arrangements do not conform to any of Bonneville's schedules, he believes that a charge for this power equivalent to the interruptible power rates mentioned above will be equitable. As he points out the power will be generated with water provided by the industries without cost to the Government and at a substantial expense to themselves. Under these circumstances we feel the application of the rates are justified. Our approval is based on the circumstances presented here and is not to be construed as a precedent in other situations.

The Commission finds:

It is appropriate for the purposes of the Bonneville Act that the rates and charges for the sale of power by Bonneville to the 14 industries as referred to above be confirmed and approved.

The Commission orders:

The rates of $1.45 per kilowatt-month for transmission system deliveries and $1.20 per kilowatt-month for at-site deliveries for the sale by Bonneville of power generated at Federal plants with additional water available from Kootenay Lake over and above its normal storage of 607,400 acre-feet, with such power to be delivered during the period from September 1, 1966, to March 31, 1967, inclusive, are confirmed and approved.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

TENNESSEE GAS PIPELINE COMPANY, A DIVISION OF TENNECO INC. AND UNITED GAS PIPE LINE COMPANY, DOCKET NO. CP66–277

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND PERMITTING AND APPROVING ABANDONMENT OF FACILITIES

(Issued November 7, 1966)

On February 23, 1966, Tennessee Gas Pipeline Company (Tennessee), and United Gas Pipe Line Company (United), filed in Docket No. CP66–277 a joint application as supplemented May 24 and May 26, 1966, pursuant to Sections 7(b) and 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas and the construction and operation of the facilities necessary therefor in accordance with an agreement between said parties dated December 29, 1965, and for permission and approval to abandon, upon the issuance of the requested certificate authorization, certain existing transportation service, all as more fully set forth in the application and supplements thereto.

United proposes to construct two new delivery points in the Lapeyrouse and Four Isle Dome Fields in Terrebonne Parish, Louisiana, and to modify existing meter and regulating stations in the Weeks Island Field area, Iberia Parish, Louisiana.

Applicants propose to exchange up to 10,000,000 Mcf of gas annually, which gas is to be delivered by United to Tennessee at daily rates up to 65,000 Mcf during May through October of each year until the termination date of April 30, 1971, at an existing point of interconnection in Ouachita Parish, Louisiana; and to replace, with an expanded service, a transportation service presently rendered United by Tennessee.[1] Applicants further propose that Tennessee return such exchange gas to United during November through April at existing points of interconnection of their facilities near the Weeks Island Field and in Calcasieu Parish, Louisiana.

There is no charge involved in the proposed exchange service, which is on a direct gas-for-gas basis, unless United delivers less than the full 10,000,000 Mcf of exchange gas. In that event, United will make a supplemental annual payment based on the difference between United's actual exchange deliveries and 10,000,000 Mcf. For the transportation service, Tennessee will receive a base rate of 0.84¢ per Mcf transported, with a minimum bill based upon a 75% load factor.

Applicants also propose that Tennessee will transport ultimately up to 176,000 Mcf per day of gas for United from existing points of interconnection in Vermilion, Iberia and Plaquemines Parishes, Louisiana, and Hancock County, Mississippi, and from the two proposed delivery points. Applicants state that all such transportation gas is to be redelivered by Tennessee to United at the existing point of interconnection in Calcasieu Parish, Louisiana.

Applicants request that upon certification of their joint proposal the Commission issue an order granting them permission and approval to abandon the transportation service heretofore authorized by Commission order issued in Docket No. CP64-92 on December 19, 1963, 30 FPC 1557, and amended on October 1, 1965, 34 FPC 1057, since such service would no longer be required.

The total estimated cost of United's proposed construction is $67,082, which cost will be financed from funds on hand.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on November 3, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, supplements and exhibits submitted in support of the authorization sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, United Gas Pipe Line Company, a Delaware corporation having its principal place of business in Shreveport, Louisiana is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of November 10, 1942, in Docket No. G-232 (3 FPC 863).

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[1] Pursuant to authorization issued in Docket No. CP64-92, Tennessee transports up to 123,000 Mcf per day for United.

(2) Applicant, Tennessee Gas Pipeline Company, a Delaware corporation having its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of July 12, 1947, in Docket No. G–910 (6 FPC 777).

(3) The proposed exchange and delivery of natural gas between United and Tennessee, the construction and operation of facilities, and the transportation of natural gas in interstate commerce, as hereinbefore described and as more fully described in the application, supplements and exhibits in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(4) The aforesaid proposed exchange and delivery of natural gas, construction and operation of facilities and transportation of natural gas are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) United and Tennessee are able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that United and Tennessee shall file superseding FPC Rate Schedules to reflect the new delivery points in accordance with the applicable Commission Regulations.

(7) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), and (f) of Section 157.20 of such Regulations.

(8) The service to be abandoned, as heretofore described, is subject to the jurisdiction of the Commission, and abandonment of such service is subject to the requirements of Subsection (b) of Section 7 of the Natural Gas Act.

(9) Such abandonment by Applicant, as heretofore described, is permitted by the public convenience and necessity and an order authorizing and approving same should be issued as hereinafter ordered.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to the Applicants in this proceeding, jointly, authorizing the exchange and delivery of natural gas as hereinbefore described, the construction and operation of new facilities for the transportation of natural gas in interstate commerce, and continued operation of existing facilities therefore, as hereinbefore described and as more fully described in the joint application, supplements thereto and exhibits in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), and (f) of Section 157.20 of such Regulations.

(C) The service authorized shall commence as provided by paragraph (b) of Section 157.20 of the aforesaid Regulations within 3 months of the date on which this order issues.

(D) United and Tennessee shall file superseding rate schedules to their respective FPC Gas Tariffs reflecting service authorized herein, in accordance with the Commission's Regulations, within 30 days of the issuance of this order.

(E) Permission for and approval of the abandonment by Applicant of the service hereinbefore described, all as more fully described in the application, as supplemented, is hereby granted, effective as of the date of commencement of the service authorized in (A) above.

(F) Applicant shall advise the Commission of the date of the abandonment within 10 days of the date thereof.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

CENTRAL POWER AND LIGHT COMPANY, PROJECT NOS. 2414 AND 2415

ORDER PERMITTING WITHDRAWAL OF APPLICATIONS FOR LICENSES

(Issued November 8, 1966)

On March 21, 1966, Central Power and Light Company (Applicant), of Corpus Christi, Texas, filed a notice of withdrawal under § 1.11(d) of the Commission's Rules of Practice and Procedure of applications for licenses for minor constructed Project Nos. 2414 and 2415 located on the Guadalupe River, Texas. Supplemental information was furnished by Applicant's letters dated September 28 and October 7, 1966. No lands of the United States are affected by the projects.

The application for license for Project No. 2414, known as the Gonzales Project, near Gonzales, Texas, described the project as having a total capacity of approximately 1,600 horsepower, while the application for license for Project No. 2415, known as the Cuero Project, near Cuero, Texas, described that project as having a total capacity of 1,500 horsepower.

Applicant states that the projects have become an uneconomical source of power and energy, that operation was discontinued permanently at Gonzales on November 24, 1965, and at Cuero on October 19, 1965, and that it has taken steps to have the electric generating facilities for both projects dismantled and removed, and unless the project dams are acquired by municipal or other parties it contemplates their remaining in the river subject to demolition upon notice or request by any agency of the United States having supervision. Pending resolution of the question and disposition of these facilities, Applicant advises it will maintain the safety of the dams and other facilities. The U.S. Corps of Engineers by letter dated August 10, 1966, advised that while neither dam is presently considered to be an unreasonable obstruction to navigation, the dams would be subject to appropriate statutory authorities administered by the Corps, including possible alterations to or removal of the structures, should the Corps determine that the dams constitute an unreasonable obstruction.

The Texas Water Rights Commission by letters dated September 28 and October 4, 1966, advised that the City of Gonzales, Texas, uses the impoundment of the Gonzales dam for municipal purposes and that it has set for hearing on January 31, 1967, the matter of cancellation of State hydro power water rights of applicant in connection with both the Gonzales and Cuero dams.

The Commission finds:

It is not inconsistent with the public interest to permit withdrawal of the applications for licenses for the above named projects.

The Commission orders:

Permission to withdraw the applications for licenses for Project Nos. 2414 and 2415 is hereby granted.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

TEXAS GAS TRANSMISSION CORPORATION, DOCKET NO. RP67-10

ORDER ACCEPTING REVISED TARIFF SHEETS FOR FILING

(Issued November 8, 1966)

Texas Gas Transmission Corporation (Texas Gas) on September 23, 1966, filed Stipulation as to Rates and tendered for filing certain revised tariff sheets to its FPC Gas Tariff.[1] The filing is a result of conferences with the Commission Staff concerning levels of its jurisdictional rates and flow-through of liberalized depreciation, in accordance with the principle established in *Alabama-Tennessee Natural Gas Co.*, 31 FPC 208, aff'd *sub nom. Alabama-Tennessee Natural Gas Co.* v. *F.P.C.*, 359 F. 2d 318 (CA5–1966), cert. den., 385 U.S. 847 (1966).

The proposed filing reflects, primarily, a flow-through of the reduction in federal income taxes resulting from the utilization of the liberalized depreciation provisions of Section 167 of the Internal Revenue Code. It would make effective as of October 1, 1966, a decrease in Texas Gas' jurisdictional rates for both sales and transportation of gas for others aggregating approximately $4,238,000, based on sales and transportation for the twelve months ended September 30, 1966.

The tendered tariff sheets provide for a reduction of $0.18 per Mcf in the demand charges of two-part rates and a corresponding reduction in straight-line rates.

The Stipulation also provides for filing of net rate reductions by Texas Gas to give effect to future reductions in the rates of its gas suppliers, below the rates that were in effect on October 1, 1966, and for flow-through of refunds received from its suppliers. Texas Gas has further stipulated that it will not effectuate an increase in any of the jurisdictional rates being reduced prior to July 1, 1968, after statutory suspension, if any. Also, Texas Gas expressly stated in the Stipulation that it is not intended to diminish any of its refund obligations under any prior settlement agreement.

Notice of proposed changes in rates and charges was issued on September 27, 1966. Copies of the proposed rate changes and stipulation were served by Texas Gas upon its customers and State commissions. No protests or objections to Texas Gas' proposed reduced rates have been received.

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[1] Second Revised Volume No. 1: Nineteenth Revised Sheet No. 5, Eleventh Revised Sheets Nos. 7 & 9, Nineteenth Revised Sheet No. 11, Tenth Revised Sheets Nos. 13 & 15, Twentieth Revised Sheet No. 17, Eleventh Revised Sheets Nos. 19 & 21, Nineteenth Revised Sheet No. 23, Eleventh Revised Sheets Nos. 25 & 27, Nineteenth Revised Sheet No. 29, Twentieth Revised Sheet No. 31, Nineteenth Revised Sheet No. 33, Twentieth Revised Sheets Nos. 35 & 37, Twenty-first Revised Sheet No. 39, Nineteenth Revised Sheet No. 41, Twentieth Revised Sheet No. 43, Eighteenth Revised Sheets Nos. 45 & 47, Nineteenth Revised Sheet No. 49, Eighteenth Revised Sheet No. 51, Nineteenth Revised Sheets Nos. 53 & 55, Twentieth Revised Sheet No. 57, Nineteenth Revised Sheet No. 59, Ninth Revised Sheet No. 60–A, Nineteenth Revised Sheets Nos. 61 & 63, Twentieth Revised Sheet No. 65, Nineteenth Revised Sheet No. 67, Seventeenth Revised Sheets Nos. 68–A & 68–B, Ninth Revised Sheet No. 68–BB, Tenth Revised Sheet No. 68–C, Seventeenth Revised Sheets Nos. 68–E & 68–F, Fourteenth Revised Sheets Nos. 68–G & 68–H, Eighth Revised Sheet No. 68–I, Fourteenth Revised Sheets Nos. 68–K & 68–L, Nineteenth Revised Sheets Nos. 69 & 70, Ninth Revised Sheet No. 70–A, Eleventh Revised Sheet No. 71, Nineteenth Revised Sheets Nos. 73 & 74, Eighteenth Revised Sheets Nos. 79–I & 79–J.

Original Volume No. 2: Fifth Revised Sheet No. 254, Second Revised Sheets Nos. 332, 362, 363 and 365; First Revised Sheet No. 391.

The Commission finds:

(1) Good cause exists for permitting the revised tariff sheets to become effective as hereinafter ordered, pursuant to the provisions of Section 154.51 of Commission's Regulations under the Natural Gas Act (18 CFR § 154.51).

(2) It is in the public interest and appropriate for the purpose of carrying out the provisions of the Natural Gas Act to accept for filing the proposed revised tariff sheets and the rate reductions therein contained to be made effective as hereinafter provided and ordered.

The Commission orders:

(A) The revised tariff sheets specifically described hereinabove are accepted for filing to become effective as of October 1, 1966.

(B) Texas Gas' Stipulation filed on September 23, 1966, is hereby approved and made effective as proposed therein. Texas Gas shall comply with each of the provisions of its Stipulation.

(C) Prior to distribution of any refunds required by the provisions of the Stipulation or any prior settlement agreements, Texas Gas shall file a report with the Commission setting forth the amount to be refunded to each customer and the billing determinants used in computing such refunds. A copy of that report shall be served on each customer and interested State commissions. Texas Gas shall retain the amounts to be refunded pending further action by the Commission, prescribing the disposition of such refunds.

(D) Texas Gas may discontinue the deferred tax accounting provided for in Paragraph A of Account 282 and adopt flow-through accounting with regard to the reduction in income taxes resulting from use of liberalized depreciation.

(E) Texas Gas shall continue to comply with the other provisions of Account 282, and account for the facilities constructed prior to January 1, 1967, on a vintage-year, pay-back basis, in respect to the amount accumulated in Account 282. Any amounts remaining in Account 282 after the properties which generated such amounts have been fully depreciated for tax purposes shall be shown as a reduction of income taxes.

(F) In the event that the liberalized depreciation provisions of the Internal Revenue Code are either eliminated or modified, any increase in income taxes occasioned thereby, with regard to properties on which liberalized depreciation had previously been allowed by the Internal Revenue Service, may be charged by Texas Gas against the amount accumulated in Account 282 until that amount is exhausted.

(G) This order is without prejudice to any findings or orders which have been made or may hereafter be made by the Commission and is without prejudice to any claims or contentions which may be made by the Commission, Texas Gas, the Commission Staff, or any other party affected by this order, in any proceedings now pending or hereafter instituted by or against Texas Gas or any other persons or parties affected by this order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

UNITED GAS PIPE LINE COMPANY, DOCKET NO. CP67-9

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued November 8, 1966)

On July 15, 1966, United Gas Pipe Line Company (Applicant) filed in Docket No. CP67-9 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction, in two phases, and operation of certain natural gas facilities and an increase in sales of natural gas to Southern Natural Gas Company (Southern) from 100,000 to 150,000 Mcf per day effective November 1, 1967, in order to alleviate Southern's depleting availability of gas from fields west of Perryville, Louisiana, all as more fully set forth in the application.

Applicant proposes to deliver the additional gas needed for the proposed sale from its South Louisiana reserves. Applicant estimates that as of January 1, 1966, its South Louisiana reserves were in excess of 14,084 million Mcf. In order to implement the delivery of gas from said reserves it will be necessary for Applicant to utilize its South-North Louisiana 30-inch pipeline, including the use of additional compression as planned in Phase II of its proposal.

Specifically, Applicant proposes to construct the following facilities:

Phase I—1967 Construction

1. Construct approximately 5.29 miles of 20-inch pipeline loop on Applicant's existing Sterlington to Perryville 16-inch pipeline, beginning at an orifice meter station located on Applicant's Sterlington Compressor Station yard in Section 32, and extending in a northeasterly direction paralleling Applicant's existing pipeline to a tie-in point at Applicant's existing sales meter station in Section 53, all in Township 20 North, Range 4 East, Ouachita Parish, Louisiana;

2. Enlarge metering facilities at Applicant's existing sales meter station near Perryville, Louisiana, located in Section 53, Township 20 North, Range 4 East, Ouachita Parish, Louisiana;

3. Add and rearrange metering and regulating facilities located on Applicant's Sterlington Compressor Station yard in Section 32, Township 20 North, Range 4 East, Ouachita Parish, Louisiana.

Phase II—1969 Construction

Add one 6,700 horsepower natural gas turbine driven centrifugal compressor, with appurtenant facilities, at Applicant's existing Olla Compressor Station.

By order issued on April 29, 1966, in Docket No. CP66-136, 35 FPC 658, Applicant was authorized to operate its new Bistineau Gas Storage Field. Based on its presentation in that application, Applicant contemplates a withdrawal rate from Bistineau of approximately 500,000 Mcf of gas per day. Applicant states that Bistineau may have greater capability than that originally expected. If it does, then Applicant contemplates meeting Southern's increased requirements from storage rather than from main line capacity. In that event it would ask for authority to omit construction of the Phase II facilities sought herein.

Accordingly, the Commission has determined to authorize only the Phase I facilities proposed herein pending Applicant's re-evaluation of its Bistineau Storage Project and require Applicant to seek additional authorization to construct the Phase II facilities if the need should arise. If not, Applicant would, nevertheless, require additional authorization to operate the Bistineau Field at withdrawal rates greater than that presently authorized.

The total estimated cost of Applicant's Phase I facilities is $555,182, which cost will be financed from funds on hand.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed herein.

At a hearing held on November 3, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, United Gas Pipe Line Company, a Delaware corporation having its principal place of business in Shreveport, Louisiana, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of January 20, 1942, in Docket No. G-216 (3 FPC 3).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding are to be used in the transportation and delivery of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof and the proposed transportation and delivery of natural gas by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities and the proposed transportation and delivery of natural gas by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e), (f), and (g) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Applicant, United Gas Pipe Line Company, to construct and operate the proposed Phase I facilities and to transport and deliver up to 150,000 Mcf of natural gas per day to Southern Natural Gas Company as hereinbefore described, all as more fully set forth in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), (f), and (g) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be constructed and placed in actual operation and the transportation and delivery of natural gas authorized in paragraph (A) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within 12 months from the date on which this order issues.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

INTERSTATE POWER COMPANY, PROJECT NO. 2339

ORDER ISSUING LICENSE (MINOR)

(Issued November 9, 1966)

Application was filed on February 11, 1963, by Interstate Power Company (Applicant) of Dubuque, Iowa, for a minor license under Section 4(e) of the Federal Power Act (Act) for constructed Project No. 2339, known as the Greene Hydroelectric Generating Station, located on the Shell Rock River, a tributary of the Cedar River in Butler County, Iowa, near the town of Greene. No lands of the United States are affected by the project.

The project has been in operation since 1925, and it does not appear that any substantial alteration has been made to the project since that date.

The Secretary of the Army and the Chief of Engineers have reported that the plans of the project structures affecting navigation are satisfactory insofar as the interest of navigation is concerned.

The Department of the Interior, in reporting on the application, recommended for inclusion in any license for the project, terms and conditions in the interests of free public access to project lands and waters, fish and wildlife, and recreation, as are found in attached Form L-12 and Article 13.

The Department of Health, Education, and Welfare has advised that it does not forsee any adverse effects from the project on matters within the Department's responsibilities.

The State Conservation Commission of Iowa states that operation of the project cuts off the flow of the river at times. The State Commission feels that maintaining a reasonable minimum flowage through the project would benefit aquatic life downstream from the project, but suggested no specific quantity of flow. Article 14 provides that the licensee shall consult with the State Commission in contemplation of reaching an agreement respecting minimum flows.

Applicant's Greene Generating Plant furnishes power to its interstate transmission system operating in Iowa, Minnesota, and Illinois, and its system is interconnected with other interstate systems.

The license herein granted shall have an effective date of May 1, 1965, the first day of the month in which the Supreme Court of the United States affirmed the Commission's findings and order asserting licensing authority over Taum Sauk Project No. 2277 by virtue of the effect of the project on the interests of interstate commerce by its utilization of headwaters of a navigable stream to generate electric energy for an interstate power system (381 U.S. 90) and a termination date of December 31, 1993.

In our order on rehearing issued February 17, 1965, in *Wisconsin Power & Light Company*, Project No. 2347, *et al.* (33 FPC 275), we stated that we would have no objection to the issuance of licenses for minor projects without waiving Sections 14 and 15 of the Federal Power Act and the other provisions of the Act necessary to the effectuation of those sections, provided the minor project applications are timely supplemented pursuant to Section 4.50 of our Regulations under the Act (18 CFR § 4.50), which relates to applications for major projects. In the event the Applicant herein wishes a license in which those provisions of the Act are not waived it should so advise us within 30 days from the date of issuance of this order and file its supplemental application within 30 additional days thereafter.

The Commission finds:

(1) The project affects the interests of interstate commerce.

(2) Applicant is a corporation organized under the laws of the State of Delaware, and has submitted satisfactory evidence of compliance with the requirements of all applicable State laws insofar as necessary to effectuate the purposes of a license for the project.

(3) Public notice of the filing of the application has been given. No protests or petitions to intervene have been received. No conflicting application is before the Commission.

(4) The project does not affect a Government dam nor will the issuance of a license therefor, as hereinafter provided, affect the development of any water resources for public purposes which should be undertaken by the United States.

(5) Subject to the terms and conditions hereinafter imposed, the project will be best adapted to a comprehensive plan for improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, for the improvement and utilization of water-power development, and for other beneficial public uses, including recreational purposes.

(6) The installed horsepower capacity of the project hereinafter authorized for the purpose of computing the capacity component of the administrative annual charge is 260 horsepower, and the amount of annual charges, based on such capacity, to be paid under the license for the project, for the costs of administration of Part I of the Act is reasonable as hereinafter fixed and specified.

(7) It will be in the public interest to waive pursuant to Section 10(i) of the Act, the terms and conditions contained in the following sections of Part I of the Federal Power Act:

> Sections 4(b), except the second sentence thereof; 4(e), insofar as it relates to approval of plans by the Chief of Engineers and the Secretary of the Army and to public notice; 6, insofar as it relates to public notice and to the acceptance and expression in the license of terms and conditions of the Act which are hereinafter waived; 10(c), insofar as it relates to depreciation reserves: 10(d), 10(f), 11, 12, 14, except insofar as the power of condemnation is reserved: 15, 19, 20, 22, and 23(a), insofar as it relates to the determination of fair value.

The Commission orders:

(A) This license is hereby issued to Interstate Power Company (Licensee) of Dubuque, Iowa, under Sections 4(e) and 10(i) of the Federal Power Act for a period effective as of May 1, 1965, and terminating December 31, 1993, for the continued operation and maintenance of Greene Hydroelectric Generating Station, Project No. 2339, located on the Shell Rock River, a tributary of the Cedar River in Butler County, Iowa, and affecting the interests of interstate commerce, subject to the terms and conditions of the Act insofar as not expressly waived herein, which is incorporated herein by reference as a part of this license, and subject to such rules and regulations as the Commission has issued or prescribed under the provisions of the Act.

(B) Greene Hydroelectric Generating Station consists of:

(i) all lands constituting the project area and enclosed by the project boundary or limits of which are otherwise defined, and

(ii) a reinforced concrete dam made up of a 235 foot spillway section, a 43 foot intake section, and wing walls at each end; a 171 acre reservoir; and a one-story powerhouse on the intake section of the dam containing one 200 kw generating unit.

(C) This license is also subject to the terms and conditions set forth in Form L-12 (May 1, 1966) entitled "Terms and Conditions of License for Constructed Minor Project Affecting the Interests of Interstate or Foreign Commerce" (35 FPC 875), which terms and conditions, designated as Articles 1 through 11, are attached hereto and made a part hereof, and subject to the following special conditions set forth herein as additional articles:

Article 12. The Licensee shall pay to the United States the following annual charge, effective May 1, 1965; for the purpose of reimbursing the United States for the costs of administration of Part I of the Act, $13.00 per annum.

Article 13. The Licensee shall, for the conservation and development of fish, wildlife and recreation resources, construct, maintain, and operate, or arrange for the construction, maintenance, and operation of such facilities and comply with such reasonable modifications of the project structures and operation as may be prescribed by the Commission upon its own motion or upon the recommendation of the Secretary of the Interior or the Iowa State Conservation Commission, after notice and opportunity for hearing and upon a finding based on substantial evidence that such facilities and modifications are necessary and desirable, reasonably consistent with the primary purpose of the project, and consistent with the provisions of the Act.

Article 14. The Licensee shall, in the interest of fishery conservation, consult with the Iowa State Conservation Commission to determine the minimum flows to be released from the dam. In the event an agreement as contemplated herein cannot be reached, the Commission reserves the right, after notice and opportunity for hearing, to prescribe the minimum flow releases.

(D) The terms and conditions of the Act, which it has been found above to be in the public interest to waive, are hereby excluded from this license.

(E) This order shall become final 30 days from the date of its issuance unless application for rehearing shall be filed as provided in Section 313(a) of the Act, and failure to file such an application shall constitute acceptance of this license. In acknowledgment of the acceptance of this license, it shall be signed for the licensee and returned to the Commission within 60 days from the date of issuance of this order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr. and Charles R. Ross.

CHATTANOOGA GAS COMPANY v. EAST TENNESSEE NATURAL GAS COMPANY, DOCKET NO. RP65-3; KNOXVILLE UTILITIES BOARD, ET AL. v. EAST TENNESSEE NATURAL GAS COMPANY, RP67-1; KNOXVILLE UTILITIES BOARD, ET AL. v. EAST TENNESSEE NATURAL GAS COMPANY AND TENNESSEE GAS PIPELINE COMPANY, A DIVISION OF TENNECO INC., CP67-38; EAST TENNESSEE NATURAL GAS COMPANY, CP64-21, CP65-66, CP66-375; TENNESSEE GAS PIPELINE COMPANY, A DIVISION OF TENNECO INC., CP64-165, CP67-64

ORDER MODIFYING OPINION NO. 485, GRANTING MOTION FOR APPROVAL OF SETTLEMENT, ACCEPTING STIPULATION AND NEW AND REVISED TARIFF SHEETS, WAIVING 30-DAY NOTICE AND MAKING TARIFF SHEETS EFFECTIVE NOVEMBER 1, 1966, AND DISMISSING COMPLAINT FILINGS

(Issued November 14, 1966)

On October 24, 1966, East Tennessee Natural Gas Company (East Tennessee) and Tennessee Gas Pipeline Company (Tennessee) filed a joint motion seeking the Commission's acceptance and approval of (1) a formal settlement agreement titled *Stipulation* and (2) related new and revised tariff sheets to East Tennessee's FPC Gas Tariff, Fourth Revised Volume No. 1, all of which were filed concurrently with the motion. Although the *Stipulation*, to be discussed in detail later, is limited primarily to resolving existing disputes between East Tennessee and its jurisdictional customers, it also bears on Tennessee as a gas supplier and parent company of East Tennessee. The settlement and tariff filings are the result of negotiations between East Tennessee, its jurisdictional customers, the Commission's staff and, to a limited extent, Tennessee. Since the settlement touches upon issues raised by the pleadings in each of the above-captioned applications, all parties to those proceedings, or where formal hearings had not commenced all parties who filed petitions to intervene therein, were served with the above-referred-to documents. Tennessee, East Tennessee, and all of the latter's jurisdictional customers are signatories to the settlement. The statutory ten (10) day period has expired and no answers in opposition to the motion have been received. Now for the particulars of the settlement.

By our Opinion Nos. 494 and 494–A, issued June 8, 1966, 35 FPC 902, and July 29, 1966, 36 FPC 325, respectively, we disposed of the issues presented by the complaint filed by Chattanooga Gas Company (Chattanooga) in Docket No. RP65–3 against East Tennessee. There we required that, among other things, East Tennessee file within a given period a new service agreement with Chattanooga consistent with the Commission's views expressed in the above Opinions. The services to be rendered under the new agreement would be either under East Tennessee's existing G–1 rate schedule or under a new partial-requirements rate schedule to be filed by the latter. The instant settlement includes a copy of a new precedent agreement executed between East Tennessee and Chattanooga along with a copy of the service agreement to be executed within 30 days of the Commission's approval of the settlement (Appendix B to the *Stipulation*). Service is to be provided under a new rate schedule designated CD–1, a copy of which is included in East Tennessee's filing (Original Sheets Nos. 11A, 11B, and 11C). East Tennessee has agreed that within 5 days after the proposed *Stipulation* becomes effective it will withdraw or dismiss its petitions for review of Opinion Nos. 494 and 494–A filed September 26, 1966, in the United States Court of Appeals for the Sixth Circuit, No. 17465.

The Knoxville Utilities Board, *et al.* (Knoxville), which collectively represents the bulk of East Tennessee's jurisdictional customers, filed a complaint in Docket No. RP67–1 contesting the reasonableness and propriety of certain costs, for rate making purposes, incurred by East Tennessee in its construction of what has been referred to as the Virginia Extension. Authorization to construct those facilities was granted in Opinion No. 435 conditioned upon filing of separate accounting data.[1] As part of the settlement, Knoxville has agreed to a dismissal of its complaint with prejudice. In turn, East Tennessee has agreed to a voluntary reduction in its jurisdictional rates which reduces its jurisdictional revenues, as calculated in our Opinion No. 488, 35 FPC 534, by approximately $89,860 annually in addition to that ordered in said Opinion.[2] This rate reduction to all jurisdictional customers is reflected, where appropriate, in the new and revised sheets to East Tennessee's tariff which are presently before us and which consist of the following:

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[1] Issued July 17, 1964, 32 FPC 158.

[2] All parties agreed that as a result of the rate reduction the accounting condition set forth in Opinion No. 435 is no longer necessary.

Second Revised Sheet No. 1
Fourth Revised Sheet No. 4
First Revised Sheet No. 5
Fourth Revised Sheet No. 6
Fourth Revised Sheet No. 9
Original Sheet No. 11A
Original Sheet No. 11B
Original Sheet No. 11C
Fourth Revised Sheet No. 12
First Revised Sheet No. 13
Fourth Revised Sheet No. 14
Fourth Revised Sheet No. 17
Fourth Revised Sheet No. 20
Fourth Revised Sheet No. 23
Third Revised Sheet No. 26
Fourth Revised Sheet No. 35
Fourth Revised Sheet No. 37
Fourth Revised Sheet No. 40
First Revised Sheet No. 55
First Revised Sheet No. 56
First Revised Sheet No. 59
Original Sheet No. 59A
First Revised Sheet No. 61
First Revised Sheet No. 63
First Revised Sheet No. 67

In Docket No. CP67–38, Knoxville filed a complaint against Tennessee claiming economic detriment due to Tennessee's reduction of delivery pressures, below alleged historical pressures, to East Tennessee at Greenbrier station. Those pressures are reflected in East Tennessee's expansion application in Docket No. CP66–375. Consistent with its complaint, Knoxville filed a petition to intervene in opposition to East Tennessee's expansion application alleging, among other things, that if Tennessee provided historical pressures at Greenbrier all of the facilities sought by East Tennessee would not be required in the immediate future. As part of the settlement East Tennessee has agreed to exclude the cost of Compressor Station 3101 (which is the subject of the application in Docket No. CP66–375) from its rate base in any Commission adjudication of East Tennessee's jurisdictional rates based on a cost of service, actual or adjusted, covering any test period for a 12-month period ending on any day prior to March 1, 1967. Additionally, Tennessee has given written assurance (Appendix C to the *Stipulation*) that the pressures to East Tennessee at Greenbrier cannot, as an operating matter, be reduced below 550 psig due to Tennessee's contractual obligation to Midwestern Gas Transmission Company at a point on the line a short distance upstream of the Greenbrier station. Conditioned upon the acceptance by the Commission of this *Stipulation*, Knoxville, on October 24, 1966, filed a petition seeking withdrawal of its complaint in Docket No. CP67–38 along with an amendment to its petition to intervene in Docket No. CP66–375 withdrawing its opposition therein. Consequently, simultaneously with the issuance of the instant order, we are issuing orders granting the application of East Tennessee in Docket No. CP66–375 along with the companion application of Tennessee in Docket No. CP67–64. In the light of all of the foregoing, and again conditioned on the Commission's acceptance of the *Stipulation*, East Tennessee has further agreed to withdraw or dismiss its petitions to review Opinion Nos. 493 and 493–A filed September 26, 1966, and September 27, 1966, in the United States Court of Appeals for the Sixth and Fifth Circuits respectively.

The foregoing discussion encompasses the primary issues resolved by the proposed settlement but does not include other significant but rather numerous related conditions and reservations. Hence any reading of the instant order must of necessity be in conjunction with a review of the filed *Stipulation* and Appendices A through C attached thereto.

Insofar as the Chattanooga market is concerned the *Stipulation* is consistent with our views expressed in Opinion Nos. 493, 35 FPC 917, and 493–A, 36 FPC 335, and in compliance with our directions in Opinion Nos. 494 and 494–A. Chattanooga will now have under contract firm volumes of gas from two suppliers. It will have the ability to elect which of its dual sources shall meet future requirements as they develop. The pending litigation for appellate review of the Commission's Opinions involving the competitive supply situation in Chattanooga will be closed. Additionally, the *Stipulation* brings other benefits to the Knoxville Interveners not the least of which is the previously referred-to reduction in rates. It also has the beneficent effect of eliminating the need for litigating sundry other contested matters.[3] We therefore conclude that the public convenience and necessity require our approval of the settlement agreement and acceptance of the filed *Stipulation* and related tariff changes.

The Commission orders:

(A) The joint motion filed by East Tennessee and Tennessee for approval of the settlement agreement is granted. The filed *Stipulation* with its Appendices is accepted.

(B) The original and revised tariff sheets filed by East Tennessee and enumerated in this order are hereby accepted and, as permitted under Section 154.98 of the Commission's Regulations, made effective as of November 1, 1966, as provided in the *Stipulation*.

(C) Opinion No. 435 is hereby modified to delete the accounting condition set forth in ordering paragraph B(ii) effective as of the date of the instant order.

(D) The complaint filed by Knoxville in Docket No. RP67–1 is dismissed with prejudice.

(E) Knoxville's petition for withdrawal of its complaint in Docket No. CP67–38 is granted and the proceedings therein terminated.

(F) As provided in the *Stipulation*, East Tennessee will, within 90 days of the issuance of this order, file CD rate schedules for Zones 2 and 3 acceptable to the Commission which shall be similar to Rate Schedule CD–1 contained in the formal tariff filing referred to in (B) above and as also appended to the *Stipulation*.

(G) Within 30 days of the issuance of this order, East Tennessee will file a service agreement executed with Chattanooga in the manner and form provided in the *Stipulation*.

(H) As provided in the *Stipulation*, East Tennessee and Tennessee will, within five (5) days of the date this order becomes final and non-appealable, withdraw or dismiss their petitions to review Opinion Nos. 493, 493–A, 494, and 494–A filed in the United States Court of Appeals for the Fifth Circuit and for the Sixth Circuit.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr. and Charles R. Ross.

EAST TENNESSEE NATURAL GAS COMPANY, DOCKET NO. CP66–375

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued November 14, 1966)

On May 17, 1966, East Tennessee Natural Gas Company (Applicant) filed in Docket No. CP66–375 an application pursuant to Section 7(c) of the Natural Gas

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[3] The *Stipulation* is without any consideration of the Commission's determinations in Opinion Nos. 497 and 497–A or the matters pending therein, 36 FPC 61, 599.

Act for a temporary and permanent certificate of public convenience and necessity authorizing the construction and operation of additional facilities and the transportation and sale for resale of natural gas in interstate commerce, all as more fully set forth in the application in this proceeding.

Specifically, Applicant seeks authorization for the construction and operation of two new 2,000 horsepower natural gas compressor stations on East Tennessee's North Line, one to be located near Greenbrier, Tennessee, and the other near Monterey, Tennessee. Applicant alleges that the proposed construction is required to meet the requirement of its customers during the 1966–1967 winter heating season and that the proposed construction would increase East Tennessee's daily design capacity to 235,338 Mcf per day at 14.73 psia, and increase its sales capacity by 47,224 Mcf per day. The estimated cost of facilities to be constructed is $1,713,000, which is to be financed through the issuance of a promissory note. East Tennessee's application, as amended, shows a market requirement on its estimated 1966–1967 peak day of 223,527 Mcf, including 10,802 Mcf per day committed for its Zone 3, Virginia Service Area, certificated in Docket No. CP64–21, 32 FPC 158 (1964). East Tennessee supplied as part of its original application the contracts and executed service agreements with its customers and estimates of the peak and annual volume requirements of all of its customers. Notice of the application was issued on May 25, 1966, and published June 3, 1966 (31 F.R. 7925).

On June 14, 1966, East Tennessee filed its First Supplement to its application setting forth Applicant's need for the facilities requested in this docket and explaining in detail the market requirements and demands anticipated by virtue of various circumstances.

Petitions to intervene were filed as follows:

	Date
Chattanooga Gas Company	June 3, 1966
Knoxville Utilities Board, *et al.* (Knoxville)	June 13, 1966
Southern Natural Gas Company	June 20, 1966

East Tennessee filed an answer to the intervention petition of Knoxville on June 20, 1966, and on June 28, 1966, filed an answer in opposition to Southern's petition to intervene.

On July 5, 1966, Knoxville filed a letter with the Commission requesting deferral of action on East Tennessee's request for a temporary certificate. East Tennessee on July 8, 1966, filed an answer in response to Knoxville's letter, and reiterated its request for a temporary certificate.

On July 11, 1966, East Tennessee filed its Second Supplement to its application stating its need for certification of the facilities to be authorized and filed therewith correspondence with the East Tennessee Customer Group. Knoxville on July 11, 1966, again requested deferral of Commission action on the request for a temporary certificate. On July 21, 1966, Knoxville, in response to the Applicant's Second Supplement filed an answer again opposing the issuance of a temporary certificate. On July 27, 1966, Knoxville filed a supplement to its petition to intervene withdrawing opposition to the issuance of a temporary certificate but requested a formal hearing.

On July 29, 1966, the Commission authorized East Tennessee to construct the facilities for which permanent authority was requested in Docket No. CP66–375, subject to the condition that the cost of such facilities would not be includable in the Applicant's rate base until final determination of the proceeding in this docket. East Tennessee notified the Commission on September 12, 1966, that construction of the facilities authorized under the temporary certificate had commenced on August 29, 1966.

On October 14, 1966, East Tennessee filed its Third Supplement to its application submitting revised customer requirements.

On October 24, 1966, East Tennessee filed its Fourth Supplement to its application setting forth increased requirements of one of its customers and the proposed stipulation by parties to the settlement concurrently filed in its Docket No. RP65-3, *et al.*

On September 14, 1966, East Tennessee filed an application for a temporary certificate authorizing the operation of two compressor stations constructed pursuant to a temporary construction certificate issued July 29, 1966.

On October 28, 1966, Southern Natural Gas Company filed a notice of withdrawal of its petition to intervene. On October 24, 1966, Knoxville amended its petition to intervene by withdrawing its opposition to the Applicant's request for a permanent certificate by use of the shortened procedure. Both withdrawals were conditioned on approval of the Motion for Approval of Stipulation submitted by East Tennessee on behalf of all parties thereto. The Stipulation is described in an order being issued concurrently in Docket No. RP65-3, *et al.*, *supra*, p. 841.

No other petition to intervene, notice of intervention, or protest was received.

At a hearing held on November 9, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, exhibits, and amendments thereto, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, East Tennessee Natural Gas Company, a Tennessee corporation having its principal place of business in Knoxville, Tennessee, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of May 3, 1949, in Docket No. G-1065 (8 FPC 836).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are to be used in the transportation and sale of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposd facilities and the transportation and sale of natural gas by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(3), (c)(4) and (e) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Applicant, East Tennessee Natural Gas Company, to construct and operate the proposed facilities and to transport and sell natural gas in interstate commerce as hereinbefore described, all as more fully described in the application, as amended and supplemented, in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(3), (c)(4) and (e) of Section 157.20 of such Regulations.

(C) The proposed construction and operation of facilities and transportation and sales of natural gas authorized in paragraph (A) above shall commence, as provided in paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within 6 months from the date on which this order issues.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr. and Charles R. Ross.

THE OHIO FUEL GAS COMPANY, DOCKET NO. CP66-311

ORDER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND ACCEPTING FOR FILING REVISED SERVICE AGREEMENTS

(Issued November 14, 1966)

On September 12, 1966 and September 29, 1966, The Ohio Fuel Gas Company (Petitioner) filed in Docket No. CP66-311 petitions to amend the order issued in the instant docket on August 30, 1966, 36 FPC 554, by requesting authorization for the construction and operation of facilities and replacement of facilities on its existing transmission system in the State of Ohio to enable Petitioner to provide increased capacity to serve the growing requirements of an existing market, and to assure adequate market service, all as more fully set forth in the petition to amend.

Specifically, Petitioner proposes to construct and operate 1.51 miles of 8⅝-inch O.D., 0.172-inch wall pipeline in Mahoning County, Ohio, replacing a section of 4½-inch O.D. and 6⅝-inch O.D., Line V-50 serving the Canfield market area, together with valves, fittings, and incidental facilities necessary for practical operation. Petitioner also requests that present limitations on maximum daily deliveries under firm rate schedules to four of its customers be increased as follows:

	Rate Schedule	Maximum daily delivery—Mcf @ 14.73 psia		
		Present	Proposed	Increase
The Racine Gas & Service Co	CDS-1	270	280	10
The Vanlue Gas Company	SGS-1	370	400	30
The Waterville Gas & Oil Co., Inc	CDS-1	3,290	3,400	100
The Delaware Gas Company	WS	11,576	[1] 11,800	224
Totals		15,506	15,880	374

[1] Comprised of 2,240 Mcf/d under WS, and 9,560 Mcf/d under CD.

The volumes shown in the new Service Agreements are the quantities requested by the aforementioned customers for the 1966-67 heating season. Existing delivery limitations affecting Racine, Vanlue, and Waterville should be increased by October 20, 1966, and for Delaware Gas by November 1, 1966, the effective contract dates of the renegotiated Service Agreements.

Ohio Fuel Gas has concurrently filed revised Service Agreements to reflect the change in sales volumes.

The total estimated cost of the proposed facilities is $52,000 which cost will be financed from cash on hand.

Due notice of the filing of the petitions to amend were published in the Federal Register on September 23, 1966 (31 F.R. 12580), and on October 13, 1966 (31 F.R. 13257). No protest, petition to intervene, or notice of intervention has been filed in this proceeding.

The Commission finds:

(1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the certificate of public convenience and necessity issued in Docket No. CP66-311 on August 30, 1966, be amended as hereinafter ordered.

(2) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the revised service agreements between Petitioner and the aforenamed customers, be accepted for filing and made effective as of the date of this order.

The Commission orders:

(A) The certificate of public convenience and necessity issued to Petitioner in Docket No. CP66-311 on August 20, 1966, is amended by authorizing the construction, operation and replacement of facilities, and the sale and delivery by Petitioner to the aforenamed customers of additional volumes of natural gas, as hereinbefore described and as more fully described in the petitions to amend.

(B) The revised service agreements between Petitioner and the aforenamed customers are accepted for filing and made effective as of the date of this order.

(C) In all other respects the certificate of public convenience and necessity shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor. Jr. and Charles R. Ross.

TENNESSEE GAS PIPELINE COMPANY, A DIVISION OF TENNECO INC., DOCKET NO. CP67-64

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued November 14, 1966)

On September 14, 1966, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant) filed in Docket No. CP67-64 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and sale for resale in interstate commerce of volumes of natural gas to East Tennessee Natural Gas Company (East Tennessee), all as more fully set forth in the application in this proceeding.

Specifically, Applicant proposes to sell and deliver to East Tennessee, one of its general service customers, an additional maximum daily quantity of 26,163 Mcf at 14.73 psia (25,650 Mcf at 15.025 psia), increasing the maximum daily quantity authorized to a total 239,508 Mcf per day at 14.73 psia (234,812 Mcf at 15.025 psia), commencing with the 1966–1967 heating season.

The additional service is to be rendered through utilization of Applicant's unallocated pipeline capacity which is available from its facilities constructed

South of Station 87 (in the State of Tennessee) as previously authorized by the Commission in Docket Nos. CP66-180 and CP66-303. Applicant states that no new or additional facilities are required to enable it to sell and deliver the increased volumes of gas to East Tennessee.

Notice of application was issued on September 21, 1966. After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on November 9, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record.

The Commission finds:

(1) Applicant, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., a Delaware corporation having its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of July 12, 1947, in Docket No. G-910 (6 FPC 777).

(2) The proposed sales and transportation of natural gas hereinbefore described, as more fully described in the application in this proceeding, will be in interstate commerce, subject to the jurisdiction of the Commission, and such proposed sales and transportation by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The proposed sales and transportation of natural gas by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(3) and (e) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Applicant, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., to sell and deliver an additional maximum daily quantity of 26,163 Mcf of natural gas at 14.73 psia (25,650 Mcf at 15.025 psia), increasing Applicant's total authorized maximum daily quantity deliveries of natural gas of 239,508 Mcf per day at 14.73 psia (234,812 Mcf at 15.025 psia) to East Tennessee Natural Gas Company, all as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(3) and (e) of Section 157.20 of such Regulations.

(C) The proposed sales and delivery of natural gas, authorized in paragraph (A) above, shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within 6 months from the date on which this order issues.

Before Commissioners: Lee C. White, L. J. O'Connor, Jr. and Charles R. Ross.

TEXAS GAS TRANSMISSION CORPORATION, DOCKET NO. CP64–107

ORDER FURTHER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued November 14, 1966)

On September 6, 1966, Texas Gas Transmission Corporation (Petitioner), filed in Docket No. CP64–107, a petition to further amend an order of the Commission issued May 26, 1964, 31 FPC 1292, in Docket No. CP64–107, granting a certificate of public convenience and necessity to Petitioner.

In its order issuing a certificate in Docket No. CP64–107, the Commission directed Petitioner to continue to file semiannual reports for both existing and two new storage projects authorized in such order. Petitioner now states the capabilities of the various reservoirs involved in the application have been established and it would appear that further reports would serve no useful purpose and therefore requests that the Commission delete the requirement of ordering paragraph (G), relating to the filing of semiannual reports on its storage reservoirs.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's order issued May 26, 1964, in Docket No. CP64–107 be further amended as hereinafter ordered.

The Commission orders:

(A) The Commission's order issued May 26, 1964, in Docket No. CP64–107 is further amended to delete from Ordering Paragraph (G) the requirement that Petitioner shall file, for both the existing and the new storage projects authorized by said order, semiannual reports on its storage reservoirs and storage operations as requested by Petitioner herein.

(B) In all other respects said order shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr. and Charles R. Ross.

TRENTON ROCK OIL AND GAS CORPORATION, DOCKET NO. CP67–75

FINDINGS AND ORDER AFTER STATUTORY HEARING PERMITTING AND APPROVING ABANDONMENT OF FACILITIES

(Issued November 14, 1966)

On September 21, 1966, Trenton Rock Oil and Gas Corporation (Applicant) filed in Docket No. CP67–75 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain natural gas facilities located in Indiana and Ohio, all as more fully set forth in the application.

Specifically, Applicant proposes to abandon in place facilities consisting of a 4-inch natural gas transmission pipeline approximately 8,800 feet in length extending easterly from a gas field in Jay County, Indiana, across the Indiana-Ohio State boundary line, to a point near the Village of Fort Recovery, Mercer, County, Ohio, together with a regulating and metering station at the corporate limits of Fort Recovery. Said facilities comprise Applicant's entire interstate transmission system.

The aforementioned facilities have not been in use since April, 1956, because of total depletion of the Jay County Field.

On October 4, 1966, Applicant filed a notice of cancellation of its tariff with the request that the Commission waive the requirements of Section 154.64 of its Regulations relating to the submission of data on sales or customers affected by cancellation of natural gas service.

After due notice, no protest, petition to intervene or notice of intervention has been filed herein.

At a hearing held on November 9, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Trenton Rock Oil and Gas Corporation, an Indiana corporation having its principal place of business in Marion, Indiana, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of October 25, 1946, issued in Docket No. G-749 (5 FPC 871).

(2) The facilities to be abandoned, as hereinbefore described, and as more fully described in the application in this proceeding, are used in the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission, and abandonment of such facilities is subject to the requirements of Subsection (b) of Section 7 of the Natural Gas Act.

(3) The abandonment by Applicant, as hereinbefore described, is permitted by the public convenience and necessity and an order approving same should be issued as hereinafter ordered.

(4) The Commission should waive the requirements of Section 154.64 of its Regulations under the Natural Gas Act and accept the notice of tariff cancellation filed by Applicant on October 4, 1966, to become effective as of the date on which this order issues.

The Commission orders:

(A) Permission for and approval of the abandonment by Applicant of the facilities hereinbefore described, all as more fully described in the application in this proceeding, are granted.

(B) The time within which the abandonment of the facilities hereinbefore described, as authorized in paragraph (A) above, shall be accomplished is fixed at three months from the date of this order.

(C) Applicant shall advise the Commission of the date of said abandonment within 10 days thereof.

(D) The Commission waives the requirements of Section 154.64 of its Regulations under the Natural Gas Act and accepts the notice of tariff cancellation filed by Applicant on October 4, 1966, to become effective as of the date on which this order issues.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

PERRY R. BASS (OPERATOR), ET AL., DOCKET NO. RI66-188

ORDER TERMINATING PROCEEDING

(Issued November 15, 1966)*

Perry R. Bass (Operator), *et al.* (Bass) on September 6, 1966, filed a motion requesting the Commission to terminate the rate proceeding in Docket No. RI66-188 and to discharge him from any refund obligation therein. That proceeding relates to a proposed increased rate of 13.19¢ per Mcf,[1] designated as Supplement No. 2 to Bass' FPC Gas Rate Schedule No. 1, for sales of gas to El Paso Natural Gas Company (El Paso) from the Brown-Bassett Field, Terrell County, Texas.

By order issued December 3, 1965, in Docket No. RI66-188 Bass' proposed increase was suspended for one day and thereafter allowed to become effective subject to refund on December 6, 1965. Such increase was suspended, even though the proposed increased rate did not exceed the applicable area base rate ceiling prescribed in Opinion Nos. 468 and 468-A, 34 FPC 159, 1068, because Bass had not yet filed a quality statement showing the quality of the gas, the applicable adjustments, if any, to the base rate ceiling, and the resulting applicable area rate ceiling. Since then, however, Bass has filed a quality statement which shows the applicable area rate to be 14.25¢ per Mcf. That quality statement was accepted by order issued August 26, 1966, in Docket No. AR61-1, *et al.*, 36 FPC 535.

Since the proposed increased rate of 13.19¢ per Mcf is below the just and reasonable ceiling for such sale, it is appropriate to terminate Docket No. RI66-188 and to relieve Bass of any refund obligation therein. Bass, of course, must file an appropriate notice of change in rate if he seeks at some time in the future to charge and collect a rate in excess of 13.19¢ per Mcf for the sales involved here.

The Commission orders:

The proceeding in Docket No. RI66-188 is terminated, and Bass is relieved of any refund obligation in such proceeding.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

THE MANUFACTURERS LIGHT AND HEAT COMPANY, DOCKET NO. CP66-347

ORDER PERMITTING INTERVENTION

(Issued November 15, 1966)

A petition to intervene in the above-entitled proceeding was filed with this Commission on September 12, 1966, jointly by the County of Chester, Pennsylvania, the Township of Honey Brook, Chester County, Pennsylvania, The Lan-Chester Land Owners Association, Florence M. Keay, Noah S. Myers, Sr., and his wife Barbara H. Myers.

The Commission received a letter dated May 10, 1966, from the Board of Supervisors of West Nantmeal Township, RD 1, Elverson, Pennsylvania and a letter dated May 16, 1966, from the West Nantmeal Planning Commission, Rural Delivery No. 2, Elverson, Pennsylvania 19520, both letters protesting against Manufacturers' application because of the proposed route of Manufacturers' proposed pipeline. We shall treat these letters as petitions to intervene in the proceeding on Manufacturers' application.

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*Rehearing denied by order issued December 23, 1966, 36 FPC 1104.

[1] Base rate less contractual deduction by El Paso for removal of carbon dioxide.

The petition filed by Chester County, *et al.*, alleged:

(1) That the County of Chester is a political entity and a subdivision of the Commonwealth of Pennsylvania with a population of approximately 210,000 persons, and that it has a pecuniary and governmental interest in the health, welfare, safety and convenience of its residents;

(2) That the township of Honey Brook is a political subdivision of the Commonwealth of Pennsylvania within the County of Chester, that it has a population of approximately 1500 persons, and that it has an interest in the health, safety, welfare, and convenience of its residents;

(3) That the Lan-Chester Land Owners Association is an unincorporated association with a membership of approximately 60 persons who own land in Chester and Lancaster Counties which lies in the path of the route over which Manufacturers proposes to construct a gas transmission pipeline;

(4) That petitioners Florence M. Keay, Noah S. Myers, Sr., and Barbara H. Myers also own land within the route of Manufacturers' proposed pipeline.

The petition alleged further that the individuals aforementioned and members of the Lan-Chester Land Owners Association, all of them owners of real property lying within Manufacturers' proposed pipeline route, are respondents in court proceedings initiated or about to be initiated by Manufacturers; and that the petitioners have had insufficient opportunity to be heard by this Commission with respect to Manufacturers' application, and particularly in respect of certain matters including *inter alia:*

> (1) Whether necessity and/or emergency exists for any additional route in light of Applicant's present possession and operation of existing lines and routes on previously taken rights of way, which rights of way appear ample to accommodate any new facilities which may be needed. Said existing routes and facilities and rights-of-way originate and terminate at the same points as do the proposed routes, facilities and rights-of-way. The existing routes, facilities and rights-of-way are approximately parallel with the proposed and run parallel with the proposed within a few miles of each other.
>
> (2) Whether Applicant's selection of its route adequately and properly allows for considerations of the public safety and convenience.
>
> (3) Whether, even if necessary, the proposed routes are over-sized in respect to their width.

Manufacturers filed an answer to the petition of Chester County, *et al.*, in which it alleged:

(a) That the petition was not filed until a long time after the final date for filing petitions to intervene in this case as stated in the notice of application;

(b) That the petition recites no legitimate interest and no appropriate grounds for the granting of intervention.

Manufacturers alleged further that Section 7(h) of the Natural Gas Act provides that a holder of a certificate of public convenience and necessity may exercise the right of eminent domain if necessary to acquire right-of-way to construct and maintain a pipeline and that the law is clear that management's judgment in respect to location of pipeline facilities will not be disturbed except under extraordinary circumstances.

The final date for filing petitions to intervene in this proceeding was June 6, 1966, as stated in the notice of application which was issued May 9, 1966 (31 F.R. 7158). Although Chester County, *et al.*, did not file their petition to intervene within the time prescribed in the notice of application, their petition and also the petitions of the Supervisors of West Nantmeal Township and West Nantmeal Planning Commission state matters showing that the petitioners have direct and substantial interest in this proceeding which may be adversely affected by the Commission's action therein. The interests of the petitioners are not adequately represented by any other party.

The Commission finds further:

Good cause has been shown to allow the petitioners named above to intervene in this proceeding in order that they may establish the facts and law from which the nature and validity of their alleged rights and interests may be determined and show what further action may be appropriate under the circumstances in the administration of the Natural Gas Act.

The Commission orders:

The County of Chester, Pennsylvania, The Township of Honey Brook, Chester County, Pennsylvania, the Lan-Chester Land Owners Association, Florence M. Keay, Noah S. Myers, Sr., Barbara H. Myers, the Board of Supervisors of West Nantmeal Township, Pennsylvania and the West Nantmeal Planning Commission are permitted to intervene in this proceeding subject to the rules and regulations of the Commission; *provided*, however, that their participation shall be limited to matters affecting rights and interests expressly asserted in their petitions to intervene; and *provided* further that permission to intervene shall not be construed as recognition by the Commission that any intervener might be aggrieved by any order entered in this proceeding.

OPINION NO. 506

KERR-MCGEE CORPORATION (FORMERLY KERR-MCGEE OIL INDUSTRIES, INC.), DOCKET NO. RI66-81

OPINION AND ORDER REVERSING INITIAL DECISION OF PRESIDING EXAMINER, DETERMINING CONTRACTUALLY AUTHORIZED RATES, PROVIDING FOR REFUNDS, AND TERMINATING PROCEEDING IN PART

(Issued November 16, 1966)*

Syllabus

1. Subject contract is not ambiguous regarding Phillips' base price; actual base price provided therein should be utilized in determining price between Kerr-McGee and Phillips. P. 858.
2. There being no evidentiary dispute, the ambiguity of the contract and relevancy of outside evidence of intent are questions of law. P. 858.
3. There is no evidence that matter of interpretation of contract ever came to parties' attention; once brought to Phillips' attention by Kerr-McGee's proposed increased rate filing, it was promptly protested. P. 858.
4. Phillips' filing of 15.22¢ rate provides from both contractual and filing viewpoint a ceiling on what it may collect on and after December 10, 1965, and during time such rate is in effect, regardless of what just and reasonable rate

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*Initial decision appears on p. 860.

may be determined in another docket—correspondingly, 15.22¢ is only figure available to use in the numerator of the fraction in determining Kerr-McGee's increased rate, since it is Phillips' effective resale rate. PP. 858, 859.

5. In a proceeding arising under Section 4 of the Natural Gas Act, Commission *determines* contractually authorized rates; *provides* for refunds and *terminates* proceeding in part.

Commissioner O'Connor *concurs* in the result.

Francis S. Irvine, Lynn Adams and *C. H. Mullendore, Jr.* for Kerr-McGee Corporation.

John R. Rebman, Kenneth Heady and *Stanley L. Cunningham* for Phillips Petroleum Company.

Francis J. Gilmore for the Staff of the Federal Power Commission.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

CARVER, *Commissioner:*

The principal question involved in this case is whether a rate increase proposed by Kerr-McGee Corporation (Kerr-McGee) for a sale to Phillips Petroleum Company (Phillips) is authorized by the parties' contract, which contract also constitutes Kerr-McGee's FPC Gas Rate Schedule No. 12. By his decision issued June 28, 1966, the examiner upheld Kerr-McGee in its contention that its proposed rate increase is contractually authorized. Phillips in its exceptions filed on August 11, 1966, admits that some increase is contractually authorized, but contends that the authorized increase is smaller than that proposed by Kerr-McGee, and the Commission's staff in its exceptions filed on August 12, 1966, agrees with Phillips. Kerr-McGee's reply exceptions filed on September 19, 1966, support the examiner. For the reasons stated hereinbelow, we conclude that the position of Phillips and staff is correct, and that the examiner's decision should be reversed.

The facts of the case are fully described in the examiner's decision and need only be summarized here. Kerr-McGee filed on August 30, 1965, under Section 4(d) of the Natural Gas Act, a proposed increase in its rate to Phillips for a certain sale of natural gas produced in Texas Railroad Commission District No. 10. Kerr-McGee proposed to increase the said rate from 10.45130¢ per Mcf to 11.84285¢ per Mcf (exclusive of tax reimbursement),[1] which increase it contended was permitted by the Kerr-McGee–Phillips contract.[2] Such proposed increase is set forth in Supplement No. 20 to Kerr-McGee's FPC Gas Rate Schedule No. 12. Phillips on September 13, 1965, filed a protest to this increase, on the ground that it lacked contractual assent. By Commission order issued September 29, 1965, the said increase was permitted to become effective on October 1, 1965, subject to refund.

Thereafter, by order dated November 2, 1965, 34 FPC 1223, the Commission provided for a hearing respecting Kerr-McGee's rate increase filing, limited to the issue of whether the contract between Kerr-McGee and Phillips provided for and permitted the proposed increase. The issue of whether the increased rate was just and reasonable was to be decided later, in the appropriate area rate proceeding. At the one-day hearing convened on January 17, 1966, the facts pertinent to resolving this case, as stipulated by the parties and incorporated by reference to the pertinent rate schedules, were admitted in evidence, and no further evidence was offered.

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[1] All prices are stated exclusive of tax reimbursement, as to which there is no dispute.

[2] The acreage from which Kerr-McGee obtains the gas for the sale in issue constitutes a portion of the acreage originally dedicated under a contract dated 1945 between Stanolind Oil & Gas Company (now Pan American Petroleum Corporation) and Phillips. Pan American assigned the subject acreage to Kerr-McGee under a farmout agreement and an assignment in 1952. For this reason, Kerr-McGee filed the Pan American-Phillips contract as part of Kerr-McGee's FPC Gas Rate Schedule No. 12, and the contract is referred to herein as the Kerr-McGee–Phillips contract.

The provisions of Article VII of the Kerr-McGee–Phillips contract (as amended), under which Kerr-McGee proposes its increase at issue in this case, provided in pertinent part as follows (italics and brackets provided):

> Section 1. Buyer [Phillips] agrees to pay to Seller, subject to the further provisions of this article: (a) The sum of 6.0744¢ per thousand cubic feet [base price] for all gas * * *, delivered hereunder during the first five (5) years following the date of first delivery of gas under this contract; the sum of 5.9940¢ per thousand cubic feet [base price] for all such gas delivered during the second five-year period following the date of the first delivery of gas under this contract; the sum of 6.3066¢ per thousand cubic feet [base price] for all such gas delivered hereunder during the third five-year period following the date of first delivery of gas under this contract; the sum of 7.1463¢ per thousand cubic feet [base price] for all such gas delivered hereunder during the fourth five-year period following the date of first delivery of gas under this contract; * * *
>
> Section 3. Pursuant to the provisions of the said pipe line contract with Michigan-Wisconsin Pipe Line Company as modified by amendments thereto executed prior to January 1, 1950, Michigan-Wisconsin has agreed to pay to Phillips base prices for gas delivered thereunder of 7.5930¢ per thousand cubic feet for all gas delivered during the first ten (10) years after the time of first delivery of gas thereunder and at the end of said 10-year period and at the end of each succeeding 5-year period thereafter the price for all gas delivered thereunder will be increased .8933¢ per thousand cubic feet. Whenever the price received by Buyer [Phillips] for gas delivered by it at any time under said pipe line contract from reserves covered by said contract as amended by "Amendatory Agreement" dated August 9, 1948, and "Amendatory Agreement" dated December 1, 1949, shall as a result of any past or future amendments of the price provisions of said contract, the operation of the escalation provisions thereof or by virtue of an order of the Federal Power Commission or by operation of law or order of any other governmental agency having jurisdiction in the premises or *for any* other *reason become higher than the applicable base price as hereinabove specified in this Section 3, or while so higher be raised or lowered, the applicable price as stipulated in Sections 1 and 2 of this Article VII shall be adjusted upward* or downward as the case may be *to an amount which bears the same relationship to the applicable price stipulated in said Sections 1 and 2 of this Article which the price received by Buyer bears to the applicable base price as set forth in this Section 3;* provided, however, that the adjusted applicable price which may be effective hereunder shall never be less than the applicable price as specified in Sections 1 and 2 of this Article VII.

As appears from the above contract provisions, Phillips resells the gas it purchases from Kerr-McGee, with other gas, to Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), such sale being made under Phillips' FPC Gas Rate Schedule No. 4.

Based upon the foregoing contractual provisions, the computation for determining how much, if at all, Kerr-McGee is entitled to increase its rate to Phillips, is best expressed by the following formula:

$$\text{Kerr-McGee's base price} \times \frac{\text{Phillips' effective resale rate}}{\text{Phillips' base price}} = \text{Kerr-McGee's increased rate.}$$

Applying the formula, there is no dispute as to Kerr-McGee's base price, which is 7.1463¢ per Mcf, as provided in Section 1 of the contract, quoted above. As to Phillips' effective resale rate, the numerator in the fraction, the facts are clear and undisputed that at the time of Kerr-McGee's filing for an increased rate on August 30, 1965, Phillips' effective resale rate to Michigan Wisconsin was 14.0635¢ per Mcf.

The major controversy between the parties involves the question of what should be the denominator of the fraction in the formula. Under Section 3 of the Kerr-McGee–Phillips contract, the denominator in the formula became 9.3796¢ per Mcf as of August 1, 1964. This consists of the initial base price of 7.5930¢ per Mcf plus escalations of .8933¢ per Mcf on August 1, 1959 and on August 1, 1964. Phillips never made any filing with the Commission to increase its rate to Michigan Wisconsin to reflect the increase in base price from 8.4863¢ to 9.3796¢ per Mcf, permitted on August 1, 1964.

Phillips argues that the base price, the denominator in the fraction, should be 9.3796¢, since this is the increased base price provided in the Kerr-McGee–Phillips contract. Phillips argues that the fact that it never made any filing to increase its rate to Michigan Wisconsin to reflect such higher base price does not change the express terms of the contract providing for the use of such higher base price in computing what Kerr-McGee's increased rate should be. The Commission's staff agrees with this position.

Kerr-McGee contends that Phillips' base price in the formula should be 8.4863¢ per Mcf, even though the contract provides for 9.3796¢, since Phillips never filed to increase its rate to Michigan Wisconsin to reflect this higher base price.

The examiner conceded that the language of the Kerr-McGee–Phillips contract quoted above may support Phillips' position in this case and the use of its base price figure in the denominator of the fraction. However, he held that it was appropriate to consider the intent of the parties as to the particular provisions of the Kerr-McGee–Phillips contract not merely from the Kerr-McGee–Phillips contract, but also from the terms of the Phillips-Michigan Wisconsin contract, various circumstances relating to the negotiation of both contracts, and other matters he believed relevant. He thought that these considerations revealed that the purpose of the Kerr-McGee–Phillips contract was to enable price increases to keep up with rising price levels, and that the parties were to increase their rates from time to time in order to achieve this purpose. On this basis, he concluded that Phillips had an obligation to give effect to the increase in the base price from 8.4863¢ to 9.3796¢, by a filing with the Commission reflecting the same. He concluded that because Phillips had failed to perform this obligation, it cannot object to Kerr-McGee's filing for an increased rate in this proceeding in reliance on this intent.

We disagree with the examiner. The dispute under consideration centers not on what Phillips' present base price is but rather what it should be in applying the price formula. The contract is explicit on this point. It specifically states the base price and the time for and amount of the periodic increases. Kerr-McGee and the examiner do not accept this explicit definition. Instead they would impose an unexpressed definition of base price for use in the formula and limit the base price to that reflected in the effective resale rate. Such interpretation of this contract is not only unnecessary, but to indulge in it is contrary to the long-settled rule that the intent of the parties to a clear and unambiguous contract must be gleaned from the contract language itself. *Calderon* v. *Atlas S.S. Co.*, 170 U.S. 272; *Greer* v. *Stanolind Oil & Gas Co.*, 200 F. 2d 920 (CA10–1952); *United States Pipe and Foundry Co.* v. *American Arbitration Association*, 67 N.J. Super. 384, 170 A. 2d 505 (1961). The contract under consideration is not ambiguous regarding Phillips' base price. The actual base price is provided for in the contract and it should be utilized in determining the price between Kerr-McGee and Phillips.

There being no evidentiary dispute, the ambiguity or clearness of the contract and the relevancy of outside evidence of intent are questions of law. *Universal Sales Corp.* v. *California Press Mfg. Co.*, 118 P. 2d 291 (1941), reversed on other grounds, 128 P. 2d 665 (1942); *Antero & Lost Park Reservoir Co.* v. *Lowe*, 194 P. 945 (1921).

What we have said applies also to the contention that Phillips acquiesced in Kerr-McGee's interpretation of the contract by accepting Kerr-McGee's billing. There is no evidence that the matter of interpretation ever came to the parties' attention. Once the matter was brought to Phillips' attention by the Kerr-McGee filing, Phillips promptly protested.

Applying the formula using the correct figures—namely, Kerr-McGee's base price of 7.1463¢ per Mcf, Phillips' effective resale rate of 14.0635¢ per Mcf, and the base price provided in the Kerr-McGee–Phillips contract of 9.3796¢ per Mcf produces an increased rate for Kerr-McGee as of October 1, 1965, when its proposed increase was placed in effect, of 10.71495¢ per Mcf, as contended by Phillips and staff.

The question that remains is what effect should we give in this case to an amendment dated January 18, 1965, of the contract between Phillips and Michigan Wisconsin deleting the existing pricing provision and substituting therefor a new pricing provision which provides a stated price of 15.22¢ per Mcf for this sale to Michigan Wisconsin, as set forth in Supplement No. 25 to Phillips' FPC Gas Rate Schedule No. 4. By Commission order issued in Docket No. RI65–526, this 15.22¢ rate was made effective on December 10, 1965, subject to refund.

Staff contends that since Phillips' resale rate to Michigan Wisconsin has now been increased to 15.22¢, this figure should be used in the numerator in Computing Kerr-McGee's increased rate on and after December 10, 1965, which would result in an increased rate of 11.5961¢ per Mcf. On this basis, staff requests that since Kerr-McGee has collected subject to refund as of October 1, 1965, an increased rate of 11.84285¢ per Mcf, plus applicable tax reimbursement, it should be required to refund, with applicable interest to the date of payment, any amounts collected in excess of a rate of 10.71495¢ per Mcf, plus applicable tax reimbursement, for the period from October 1, 1965, through December 9, 1965; and any amounts collected in excess of 11.5961¢ per Mcf, plus applicable tax reimbursement, for the period thereafter.

The examiner denied staff's request on the ground that the 15.22¢ rate is the subject of proceedings in Docket No. RI65–526 and that the relief staff requests is not appropriate in this case. Kerr-McGee contends that it has not filed any application for a rate based upon such 15.22¢ rate to Michigan Wisconsin and therefore the examiner had no basis for determining any contract rate insofar as Kerr-McGee is concerned in connection with such 15.22¢ rate.

We disagree with the examiner on this issue also. As staff points out, Phillips' filing of the 15.22¢ rate provides from both a contractual and filing viewpoint a ceiling on what it may collect on and after December 20, 1965, and during the time such rate is in effect, regardless of what just and reasonable rate may be determined in Docket No. RI65–526. Correspondingly, during such time, in applying the above-stated formula for determining Kerr-McGee's increased rate, 15.22¢ is the only figure available to use in the numerator of the fraction in determining Kerr-McGee's increased rate, since it is Phillips' effective resale rate. The fact that such increased rate was made effective in another docket obviously is completely immaterial for purposes of applying the formula. Likewise immaterial is the fact that Kerr-McGee has not filed for a rate increase reflecting such increased 15.22¢ rate, for we are not deciding what is Kerr-McGee's just and reasonable rate, but only what figure is properly to be used in applying the formula for determining the rate increase contractually authorized for Kerr-McGee on and after December 10, 1965, and the amount of refunds to be required accordingly.

In accordance with the foregoing, this proceeding should be terminated as to the contractual issues prescribed by our order issued November 2, 1965, setting such issues for hearing. The issue of the justness and reasonableness of Kerr-McGee's increased rate remains to be determined under such order. Likewise subject to future determination, in the event Phillips' 15.22¢ rate to Michigan Wisconsin is determined not to be just and reasonable, is whether the contractually authorized rate of Kerr-McGee to Phillips on and after December 10, 1965, should be lower than the 11.5961¢ per Mcf we herein determine to be contractually authorized for such period, and additional refunds required accordingly.

The Commission orders:

(A) The initial decision of the presiding examiner issued herein on June 28, 1966, is hereby reversed.

(B) As of October 1, 1965, Kerr-McGee's contractually authorized rate to Phillips under their contract the subject of this proceeding (Kerr-McGee's FPC Gas Rate Schedule No. 12) is 10.71495¢ per Mcf, plus applicable tax reimbursement; and as of December 10, 1965, is 11.5961¢ per Mcf, plus applicable tax reimbursement.

(C) Within 60 days of the date this opinion is issued, Kerr-McGee shall file a supplement to its FPC Gas Rate Schedule No. 12, superseding its Supplement No. 20 and setting forth its contractually authorized rates as determined in paragraph (B) above, for the periods of time stated in said paragraph (B), which rates shall be Kerr-McGee's lawfully effective rates under the Natural Gas Act and the Commission's Regulations.

(D) Within 70 days of the date this opinion is issued, Kerr-McGee shall compute the differences between the rate collected subject to refund in Docket No. RI66–81 to the date of this order and the contract rates as determined in paragraph (B) above for the respective periods involved, with interest at 7 percent per annum to the date of payment, and shall submit a report to the Commission, and serve a copy on Phillips, setting out the amount of refunds, plus applicable interest, it has computed showing separately the principal and interest, the bases used for such determination and the period covered. Within 20 days after such submittal, Kerr-McGee shall refund to Phillips with applicable interest to the date of such refund the monies it has collected in Docket No. RI66–81 in excess of the contract rates determined herein and within 10 days thereafter Kerr-McGee shall file with the Commission a release from Phillips showing receipt of the refunds in accordance with the provisions of this order.

(E) Except as to the matters reserved in the opinion accompanying this order, this proceeding is hereby terminated.

Commissioner O'Connor *concurs* in the result.

INITIAL DECISION

OF THE PRESIDING EXAMINER PURSUANT TO AN ORDER OF THE COMMISSION SETTING CONTRACTUAL MATTERS FOR HEARING IN RELATION TO RATE FILING UNDER SECTION 4 OF THE NATURAL GAS ACT

(Issued June 28, 1966)

SIMPSON, *Presiding Examiner.* The proceeding concerns a filing by Kerr-McGee Corporation (Kerr-McGee) pursuant to Section 4 of the Natural Gas Act (Act) of a proposed rate increase; the filing by Phillips Petroleum Company (Phillips) of an objection thereto; the filing of a further petition by Phillips, including a plea to the issue of contract entitlement; and the Commission order of November 2, 1965, 34 FPC 1223, which, reserving the question of justness and reasonableness of the rate, provided that a public hearing be held limited to the contractual issues involved.

For the reasons hereinafter stated, it is herein found and concluded that the proposed rate has adequate contractual support.

On August 30, 1965, Kerr-McGee filed Supplement No. 20 of its FPC Gas Rate Schedule No. 12, in which it proposed, effective September 13, 1965, to adjust the rate for gas sold to Phillips in the Texas-Hugoton Field, Sherman County, Texas (Texas Railroad Commission's District No. 10), from 10.45130 cents per Mcf to 11.84285 cents per Mcf, exclusive of the applicable tax reimbursements.[1] The filing described the rate as representing the effect of a periodic increase in the base rate under amended Article VII, Section 1, of a contract originally executed December 5, 1945, by and between Stanolind Oil and Gas Company (Stanolind) and Phillips (Stanolind contract), filed as Kerr-McGee's FPC Gas Rate Schedule No. 12, as amended by Article III, Section 2, of a written agreement between the same parties, dated March 10, 1950 (amendment), and previously filed as Supplement No. 1 to Kerr-McGee's FPC Gas Rate Schedule No. 12.[2]

On September 13, 1965, Phillips filed protest asserting the proposed increase to lack contractual consent and the filing by Kerr-McGee to be unlawful.[3]

By order issued September 29, 1965, in Docket No. RI66–81, the Commission suspended the proposed rate for one day, until October 1, 1965, whereupon on an undertaking duly filed and subject to refund, the proposed increase became effective.

On October 8, 1965, Phillips filed petition for reconsideration and vacation of the Commission's order of September 29, 1965, or in the alternative for an immediate hearing on the limited issue of Kerr-McGee's contractual entitlement to the increased rate, and on November 2, 1965, the Commission issued its order herein aforesaid, entitled "Order Consolidating Proceedings, Permitting Intervention, and Setting Contractual Matters for Hearing", directing a public hearing with respect to the contractual issues involved, and a prehearing conference to commence November 16, 1965, following which the Presiding Examiner would give notice of the date of hearing and prescribe procedures deemed appropriate in the disposition of the matters involved.

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[1] Unless otherwise indicated, all prices are stated on a per Mcf basis, at 14.65 psia, before reimbursement for production taxes.

[2] The contract dated December 5, 1945, as well as the amendment dated March 10, 1950, was executed by and between Stanolind (now Pan American Petroleum Corporation), as Seller, and Phillips as Buyer, for the sale and purchase of natural gas from leases located in Sherman and Hansford Counties, Texas, and Texas County, Oklahoma. Subsequently, pursuant to a farm-out contract dated September 10, 1952, (Supp. No. 10), and an assignment of September 15, 1952, (Supp. No. 11), made subject to the terms of the contract and amendment, Stanolind assigned to Kerr-McGee the oil and gas leases covering the tract within the field known as the Prymek Unit, including underlying dry gas rights down to a depth of 3300 feet.

[3] Citing, *United Gas Pipe Line Co.* v. *Mobile Gas Service Corp.*, 350 U.S. 332 (1956).

During the duly convened prehearing conference the participants stipulated to the amount and effective date of the adjusted rate received by Phillips from Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) for natural gas sold under a contract dated December 11, 1945 (pipeline contract); the amount of Phillips' unadjusted base rate to Michigan Wisconsin; and to the step-up base rate to which Phillips was contractually entitled but for which it had not filed. The participants further stipulated that there be received in evidence, by reference to the Commission's formal files, Phillips' FPC Gas Rate Schedule No. 4, including amendments and supplements (Item B), and Kerr-McGee's FPC Gas Rate Schedule No. 12, likewise with amendments and supplements (Item C).[4]

The hearing convened January 17, 1966, when the foregoing items were duly received, but, no further evidence being offered, with the setting of dates for the submission of briefs, was thereupon concluded.

THE ISSUES

The primary issue of these proceedings involves the following premises and question.

The Stanolind contract providing for an adjustment of its specified period step-up base rate for gas sold Phillips in the ratio of the price received by Phillips from Michigan Wisconsin to the applicable base rate provided in the pipeline contract; and the pipeline contract providing for a period increase in the base rate for gas sold by Phillips to Michigan Wisconsin; and, Phillips neither filing for the increased base rate under Section 4 of the Act nor using it to redetermine the price to be received from Michigan Wisconsin; then, is Kerr-McGee's 5-year base rate for the period commencing September 13, 1965, to be adjusted on the basis of the rate provided in the pipeline contract effective for the period prior to that of the new base rate increase of the pipeline contract (August 1, 1959–August 1, 1964), or, is it to be adjusted on the basis of the new rate provided for the period commencing August 1, 1964, but for which Phillips has not filed?

The secondary issues raised in the briefs of participants are considered in following portions of this decision.

CONTENTIONS OF PARTICIPANTS

Kerr-McGee arrives at its proposed rate (Supp. No. 20) by multiplying its base price to Phillips (7.1463 cents) by a fraction having as its numerator Phillips' price to Michigan Wisconsin in effect at the time of its filing (14.0635 cents) and as its denominator the base price actually used at the time by Phillips for purposes of billing for gas sold to Michigan Wisconsin (8.4863 cents).[5]

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[4] The participants stipulated to the admissibility of the Pan American Petroleum Corporation (Operator), *et al.*, FPC Gas Rate Schedule No. 57 with amendments and supplements (Item A) relating also to sales of natural gas, by Pan Am to Phillips for resale to Michigan Wisconsin, under the same contract as Kerr-McGee's FPC Gas Rate Schedule No. 12, but the proceedings involving Pan Am, then a party by virtue of the consolidation of proceedings effected by Commission's order aforesaid, issued November 2, 1965, in Docket Nos. RI66–61 and RI66–81, were subsequently severed and terminated. The briefs of participants indicate no substantial reliance upon this item.

Kerr-McGee contends that the currently appropriate base rate applicable to Phillips' sales to Michigan Wisconsin is that received on July 31, 1965 (8.4863 cents), and not the 9.3796 cents periodic step-up provided in the pipeline contract, which Phillips never put into effect.[6]

Phillips contends that the language of Article VII, Section 3, of the Stanolind contract, requires that the period base price of 7.1463 cents be adjusted in the ratio of the price then received by Phillips (14.0635 cents) to the period base price provided in the pipeline contract commencing August 1, 1964, of 9.3796 cents; the Stanolind contract does not impose an obligation upon it to file for the step-up rate; it has not received payments from Michigan Wisconsin based upon the new base rate (9.3796 cents), and since January 18, 1965, has not been entitled thereto; and, accordingly, until December 10, 1965, the date when Phillips made effective its proposed renegotiated rate of 15.22 cents, Kerr-McGee was only entitled to file for an increased price to Phillips of 10.71495 cents.[7]

Kerr-McGee rejoins that adopting Phillips' proposal would mean that Phillips would obtain, in effect, an unapplied for and improper base rate increase[8]; and further asserts that the contract has received a practical construction by its action and that of Phillips', in that from August 1, 1964 until October 1, 1965, a period of some 13 months, it continued to bill for gas, and Phillips to pay, on the basis of use in the rate formula of a Phillips' base rate of 8.4863 cents.

Staff contends that by terms of the pipeline contract the base rate of 9.3796 cents became effective August 1, 1964, and is the "applicable base price"; the language of the contract distinguishes "applicable base price" and "price received" and does not require that Phillips charge and collect the base rate as a "received" rate before it becomes an operative part of the formula for the adjustment of Kerr-McGee's rate; Phillips' putting into effect the 15.22 cents renegotiated rate on December 10, 1965, limits Kerr-McGee's claim to the interval between October 1, 1965 and December 10, 1965, and terminates the base rate controversy; and since Kerr-McGee has collected, subject to refund, on and after October 1, 1965, on the basis of an adjusted base rate of 11.84285 cents, as compared with the appropriate contractual adjusted base rate of 10.71495 cents, it should be required to refund, with interest, all amounts in excess of 10.71495 cents through December 9, 1965, and likewise as to amounts collected since, in excess of an appropriately adjusted base rate of 11.5961 cents.

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[5] The contractual formula is: Kerr-McGee's adjusted rate=(Kerr-McGee's base rate) × (the price received by Phillips from Michigan Wisconsin divided by Phillips' base rate to Michigan Wisconsin). The participants agree that Kerr-McGee's base rate is 7.1463 cents and that the price then received by Phillips from Michigan Wisconsin was 14.0635 cents, but dispute as to the base rate to be taken from the pipeline contract, Kerr-McGee contending that use of the next period base rate would in fact reduce the ratio between Phillips' current price to Michigan Wisconsin and its applicable base price to the latter, and so the price to Kerr-McGee (from 11.84285 cents to 10.71495 cents).

[6] Increasing the base price to 9.3796 cents would have increased Phillips' price for gas to Michigan Wisconsin from the then effective 14.0635 cents to 15.5439 cents, which, in turn, would have led to a further adjustment by Kerr-McGee of its price to Phillips, *i.e.*, 7.1463 cents × 15.5439 cents/9.3796 cents=11.84285 cents. However, during this period Phillips was attempting to renegotiate the price provisions of the pipeline contract, which it eventually succeeded in doing, as evidenced by the filing of Supp. No. 25, to its FPC Gas Rate Schedule No. 4.

[7] Continuing, when Phillips' renegotiated rate became effective, Kerr-McGee was entitled to file for a rate of 11.5961 cents, derived by adjusting Kerr-McGee's base price (7.1463 cents) in the ratio of Phillips' renegotiated rate of 15.22 cents to the base rate of 9.3796 cents.

[8] It appears that Kerr-McGee's ratio of 14.0685 cents to 8.4863 cents or 165.72 percent produces the same percentage adjustments to its base rate as would the applicable ratio which would have resulted had Phillips filed for and placed into effect the step-up base rate to Michigan Wisconsin, *i.e.*, 15.5439 cents to 9.3796 cents, or 165.72 percent; whereas, Phillips' ratio of 14.0635 cents to 9.3796 cents produces a lower 149.937 percent.

Kerr-McGee rejoins that the amendment of the pipeline contract negotiated between Phillips and Michigan Wisconsin as of January 18, 1965, which substitutes a price of 15.22 cents for that of the previous pricing provision, does not affect the formula and has no practical effect as the numerator, the price received by Phillips, is not in issue.

FINDINGS AND CONCLUSIONS

The construction to be given the Stanolind contract involves a determination as to the intent of the original parties thereto which will thereupon govern throughout its life, and be binding upon Kerr-McGee as a successor-in-interest (*Doll* v. *Maravilas*, 187 P. 2d 885, 888 (Cal. D.Ct. App. 1947)).

A literal reading of the "applicable price" clauses of Sec. 3 of Art. VII of the contract may support Phillips' construction that Sec. 3 provides a self-enforcing "applicable base price", whether a filing therefor under the provisions of the pipeline contract is made or not, but inquiry as to intent does not end with a literal reading of the terms of a contract.

The Stanolind contract was in process of negotiation and consummation contemporaneously with the pipeline contract. It was entered into to enable Phillips to obtain a substantial part of the additional reserves and supplies needed to meet the expected requirements of the pipeline (Recitals, Kerr-McGee Gas Rate Schedule No. 12).

The pipeline contract commits to Michigan Wisconsin Stanolind's reserves including those of the Prymek Unit, and effectually dedicates the gas produced and saved therefrom (Art. II, Secs. 2 and 6). It binds Phillips to enforce provisions of its supply contracts requiring the producer to proceed with diligence in the development of leases and the drilling of wells, as necessary to enable the producer to meet its contract commitment (Art. I, Sec. 4), and to assert, for Michigan Wisconsin's benefit, all rights possessed by Phillips thereunder.

It appears appropriate that provisions of the pipeline contract be considered in determining the intent of the parties as to corresponding provisions of the Stanolind contract (*Humble Oil & Refining Co.* v. *Mullican*, 190 S.W. 2d 392, 395 (Tex. Civ. App. 1945); *Banks* v. *City of Ardmore*, 112 P. 2d 372, 376 (Okla. 1941)).

When the parties reduce their agreement to writing, the written instrument should be presumed to embody the entire contract (*Danciger Oil & Refining Co. of Texas* v. *Powell*, 154 S.W. 2d 632, 635 (Texas 1941)); but in construing the contract, it is necessary to determine the intention of the parties as expressed in the language which they have used (*Weaver* v. *Weaver*, 171 S.W. 2d 898, 900 (Tex. Civ. App. 1943); *Withington* v. *Gypsy Oil Co.*, 172 P. 634, 635 (Okla. 1918); *Virginia Ry. Co.* v. *Avis*, 98 S.E. 638, 639 (Va. 1919)), without importing duties and obligations by implication merely because otherwise it may seem that the agreement is unwise or unjust. (*Danciger Oil & Refining Co.* v. *Powell*, *supra;* see, *Federal Land Bank of Wichita* v. *Nicholson*, 251 P. 2d 490, 494 (Okla. 1952)).

Therefore, in the matter of construction of contracts it is proper to take the place of the parties at the time the contract was made, consider their situation with respect to the subject matter (*Weaver* v. *Weaver*, *supra*, 900; *Liberty National Bank & Trust Co.* v. *Bank of America*, 218 F. 2d 831, 840 (10th Cir. 1955); *Empire Properties Corp.* v. *Manufacturers Trust Co.*, 43 N.E. 2d 25, 28 (N.Y. 1942); *Virginia Ry. Co.* v. *Avis*, *supra*, 640) as well as the language thereof in the light of facts and circumstances surrounding the parties when the contract was made, and the purpose sought to be accomplished (*Lone Star Gas Co.* v. *X-Ray Gas Co.*, 164 S.W. 2d 504, 508 (Texas 1942); *Gulf Oil Corp.* v. *Spence & Howe Constr. Co.*, 356 S.W. 2d 382, 388 (Texas Civ. App. 1962); *United States, ex rel. Moseley* v. *Mann*, 197 F. 2d 39, 41 (10th Cir. 1952); *Hoffer Oil Corp.* v. *Hughes*, 16 S.W. 2d 901, 904 (Texas Civ. App. 1929)) in order to obtain preliminary comprehension of the meaning of a contract, the effect to be given to the words of which it is composed, and the standpoint of the parties with repect to the subject matter, (*Reed* v. *Insurance Co.*, 95 U.S. 23, 30–31 (1877); *Newark Publishers' Ass'n* v. *Newark Typo. Union*, 126 A. 2d 348, 353 (N.J. 1956)).

The recitals of the Stanolind contract and of the amendment of March 10, 1950, indicate that each was executed by the parties through Oklahoma offices, and it is inferred that the contract and amendment were executed in Oklahoma. Performance under the Stanolind contract by Stanolind requires the development of leases by drilling, and the production and delivery of natural gas from wells located in Sherman and Hansford Counties, Texas, and Texas County, Oklahoma, and, thus, to a substantial extent involves deliveries from wells located in Texas.

Performance, as concerned with the issues of this proceeding, requires of Kerr-McGee the development of leases and the production and delivery of natural gas to Phillips at the wellhead on the Prymek Unit, Sherman County, Texas (Art. III), acceptance of such deliveries by Phillips, and payment therefor, ostensibly, at offices in Oklahoma.[9]

It would appear that, while a determination of the meaning of words would not require reliance upon precedents obtained exclusively from Texas or Oklahoma law (Restatement, Conflict of Laws, Sec. 332, comment, a), a construction determining the legal effect of the language would (Restatement, Conflict of Laws, Sec. 332 comment, c). However, the law and decisions of the courts of these two states, applicable in determining the intent of the parties to a written instrument, appear to disclose no variation or departure one from the other, or modification of the rules generally applied as stated in this decision, which would be of apparent significance as to the matters involved in this proceeding.[10]

Prior to amendment (Kerr-McGee Gas Rate Schedule No. 12, Supp. No. 1) the Stanolind contract related the price of gas to an inflation-deflation formula based upon upward and downward changes of stated magnitude in a general commodity price index, and changes in the general price level of Michigan Wisconsin's and distributors' rates (Art. VII, Sec. 2). Similarly, the pipeline contract made provision, initially, for adjustment in Phillips' rate on the basis of inflation or deflation as determined by reference to the general price index (Art. VIII, Sec. 2) and on the basis of Michigan Wisconsin's general rate level. In this respect the pricing provisions of the original two contracts, as filed, were practically the same (pipeline contract, Art. VIII, Sec. 2; Stanolind contract, Art. VII, Sec. 2). The Stanolind contract also provided that Phillips would use its best efforts to induce Michigan Wisconsin to diligently pursue all of its rights and remedies in a good faith endeavor to increase its rates from time to time to the end that these may be brought up to inflated price levels (Art. VII, Sec. 2), while in the pipeline contract Michigan Wisconsin agreed that it would diligently pursue such rights and remedies in a good faith endeavor to effect such increases. The Stanolind amendment of March 10, 1950 (Kerr-McGee Gas Rate Schedule No. 12, Supp. No. 1) omits the reference to price indices and inflation, but the price amendments of the pipeline contract of August 9, 1948, and December 1, 1949 (Phillips' Rate Schedule No. 4, Supps. Nos. 3 and 6), retain the reference to the price index, provides an adjustment substantially equivalent to that of the original contract, and specifically saves the obligation that Michigan Wisconsin diligently endeavor to effect the changes required. The Stanolind amendment (Supp. No. 1, *supra*) omits the duty imposed upon Phillips to use best efforts to induce Michigan Wisconsin to increase prices to inflated price levels, but takes specific cognizance, as previously stated, of the provisions of the pipeline contract which established Phillips' periodic base prices for gas sold Michigan Wisconsin.

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[9] Phillips' deliveries to Michigan Wisconsin are effected at Phillips' Sherman plant meter station, Hansford County, Texas (Phillips Rate Schedule No. 4, Art. IV).

[10] The statutes of Oklahoma provide to the effect that a contract shall be interpreted according to the law of the place of performance (Okla. Stat. (1961), Title 15, Sec. 162), the sale of gas by Kerr-McGee to Phillips occurs in Texas, and several Texas decisions express the view that the contract is to be interpreted according to the law and usage of the place where it is to be performed, emphasizing that the attention of the parties is drawn to the law of the state in which the contract can be broken and liability incurred, and that it is to be presumed that they intended that their rights and obligations be determined by the laws prescribed by that state upon the subject, *Cockburn* v. *O'Meara*, 141 F. 2d 779, 782 (CA5–1944). However, as stated, no reason appears for not applying the generally accepted rules of interpretation stated in the text of this decision.

The intention of the parties should not be determined by mere reference to the specific provisions of the contract (*Myers* v. *Gulf Coast Minerals Management Corp.*, 361 S.W. 2d 193, 195 (Texas 1962); *Cities Service Oil Co.* v. *Geolograph Co.*, 254 P. 2d 775, 780 (Okla. 1953); *Lion Oil Co.* v. *Gulf Oil Corp.*, 181 F. 2d 731, 733 (CA5–1950)). Single portions, sentences, or clauses should not be considered as standing alone, nor should words and phrases of the contract be isolated and given a literal meaning inconsistent with the whole contractual scheme. (*Newark Publishers' Ass'n.* v. *Newark Typo. Union, supra.*) Rather, the contract is to be looked at within all four corners, (*Gresham* v. *Turner*, 382 S.W. 2d 791, 793 (Texas Civ. App. 1963); *United States ex rel. Moseley* v. *Mann, supra*) and be given such effect as is necessary to enable it to achieve its general purpose (*Hoffer Oil Corp.* v. *Hughes, supra; Cities Service Gas Co.* v. *Kelly-Dempsey & Co.*, 111 F. 2d 247, 250 (CA10–1940)). Greater regard is to be given to the clear intent of the parties than to the particular words used in the expression thereof (*Rabon* v. *Berry*, 245 P. 2d 440, 444 (Okla. 1952)), which words may be narrowed, broadened, or qualified, as the case may be, by the purpose made evident by the whole writing. (*Cities Service Oil Co.* v. *Geolograph Co., supra; Newark Publishers' Ass'n* v. *Newark Typo. Union, supra; Empire Properties Corp.* v. *Manufacturers Trust Co., supra; Sparks Milling Co.* v. *Powell*, 143 S.W. 2d 75, 77 (Ky. 1940)).

The evident purpose of the provision in the original Stanolind contract, was to provide Stanolind, its successors and assigns,[11] as producers, the protection price-wise which Phillips, a like producer, had obtained under its original contract (Supps. Nos. 3 and 6, *supra*). Upon consideration of the foregoing circumstances and looked at in its entirety, the evident purpose of the pricing provisions of the amended contract was still to assure that the contract should not be burdensome to either party in the event of rising prices, no less than in the original pricing provisions. The language of the amendment does not indicate an intent to surrender any part of such purpose, but rather supports an inference that Stanolind was satisfied to rely upon an assumption that Phillips' position as a co-supplying producer was sufficient to afford it assurance that the reference to the base price of the pipeline contract would yield a result fully compatible with that of the original purpose. The main purpose controls over dry words (*Withington* v. *Gypsy Oil Co., supra*, at 635), and a construction which provides a basis for justice to both parties should prevail. (*Marathon Oil Co.* v. *Edwards*, 96 S.W. 2d 551, 553 (Texas Civ. App. 1936); *Withington* v. *Gypsy Oil Co.*, *supra*, at 637.) Therefore, it must be implied that Sec. 3 of Art. VII was intended by both Stanolind and Phillips to provide Stanolind no less certainty as to its price than the stipulation of good faith efforts by Michigan Wisconsin would provide to Phillips.

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[11] The intent of the original parties governs throughout the life of the contract and unless modified binds successors in interest (*Doll* v. *Maravilas, supra*).

Kerr-McGee's assertion that it has billed, and Phillips has paid over a period of time, on the basis of a computation consistent with its construction of Art. VII and inconsistent with that advocated by Phillips, is uncontradicted. Generally, a practical construction or interpretation by the parties of a doubtful contract should be followed. (*Lone Star Gas Co.* v. *X-Ray Gas Co.*, *supra*, at 508; *Liberty National Bank & Trust Co.* v. *Bank of America*, *supra*, at 836.)

Moreover, several acts of the parties, separate in nature but similar in effect, make it clear that the base price and escalation provisions are designed to compensate the producer for developing, equipping, drilling, producing, and operating the lease or unit, to make available additional gas and to provide a price which, over the life of a long term contract, would enable it to meet varying increases in capital investment and operating costs, particularly with respect to the development of reserves (Kerr-McGee, Supps. Nos. 17, 18, and 19, filed February 24, 1958, August 8, 1960, and January 30, 1961, respectively.)

In support of an escalated period price increase effective at the end of the five-year period following the date of first delivery, Phillips urged that, due to a decline of some 95 psia from original reservoir pressures, it was being put to added expense in maintaining deliveries by means of its gathering system and it had become necessary to develop marginal areas and drill additional wells on closer spacing and, in effect, that as it was necessary for the producer to know in advance the price he is to receive, these matters had been anticipated and considered when the specific prices were provided in the pipeline and gas purchase contracts (Supp. No. 13, filed January 3, 1955; *cf.*, Supp. No. 23, filed June 29, 1959). Likewise, when Phillips attempted to adjust its base rate for an increase in Michigan Wisconsin's resale rates for which a filing had been made on May 11, 1956, Phillips repeated certain of such grounds, asserting that to maintain deliveries with reservoir pressures dropping another 5 psia, and continuing at the rate of 10 psia per year, it was having to incur additional investment costs and operating expenses; and that its proposed price did not permit it to maintain a price relationship equal to price levels which existed at the time the contract base price was specified (Supp. No. 19, filed June 25, 1956; *cf.* Supps. No. 21, filed March 15, 1957, and No. 24, filed April 21, 1960).

The insertion in Art. VII, Sec. 3, of the reference to the provisions of the pipeline contract with Michigan Wisconsin whereby Michigan Wisconsin had agreed to pay Phillips certain base prices, clearly was not meant to provide to Stanolind and its successors, during any or all of the five-year periods of the indefinite term of the contract, a price which might be either greater or less, dependent upon Phillips' uncontrolled discretion in the matter. If the contrary be held, then it follows that the contract imposes a duty in this respect of uncertain nature, and determinable only at the will of Phillips or its successors. Phillips offers no justification for not putting the contractual step-up rate into effect and the rule that in every contract there exists an implied covenant of good faith (*Kirke La Shelle Co.* v. *Paul Armstrong Co.*, 188 N.E. 163, 167 (N.Y. 1933)) leads only to the result contended for by Kerr-McGee.

While it is generally true that an implied covenant must rest upon the presumed intention of the parties as gathered from the terms actually expressed in the written instrument, and must appear to have been so clearly within the contemplation of the parties that they deemed it unnecessary to express it (*Danciger Oil & Refining Co. of Texas* v. *Powell*, *supra*, at 635), it is also generally held that where a contract creating mutual rights and obligations fails to specify the duties and obligations intended to be assumed, an agreement will be implied to do those things that, according to reason and justice, should be done to effect the purpose for which the contract was made (*Humphreys* v. *Central Kentucky Natural Gas Co.*, 229 S.W. 117, 119–120 (Ky. 1920)). That which is unmistakably implied is as much a constituent element of the intent as that which is expressed in terms (*Newark Publishers' Ass'n.* v. *Newark Typo. Union*, *supra*, at 352–353).

It has been held that when a lessee subleases, and the sub-lessee has knowledge of the basic lease and knows that the shorter term thereof can be extended to validate the term of the sub-lease, the sub-lessor's act of leasing is to be regarded as reasonably calculated to lead to the belief that he will secure the extension of his lease, and the sub-lease implies an intent and agreement so to do (*Texas Co.* v. *Adelman*, 99 P. 2d 874, 876 (Okla. 1940)). The amendment of the Stanolind contract conveys no indication that Phillips did not intend to exercise its rights to give effect to base rate increases at the times provided in the pipeline contract, and because want of such exercise would result in a loss to Stanolind and its assigns, the principle stated in the cited case fully applies.

The similarity of language contained in the pricing provisions of the several producer contracts committing reserves required by Phillips in support of its original contract with Michigan Wisconsin indicates that the language of Art. VII, Sec. 2, of the Stanolind contract is that of Phillips, and the circumstances giving rise to the amendment of March 10, 1950, as stated in the recitals thereof, raises an inference that the language of the amendment is also that of Phillips. In these circumstances, the rule of strong construction against the author, though secondary in nature and not favored, is nevertheless applicable, and accordingly, the language of the Article's Sec. 3 is to be interpreted most strongly against Phillips, (*Cities Service Gas Co.* v. *Kelly-Dempsey & Co.*, *supra* at 249. *Cf.*, *Universal C. I. T. Credit Corp.* v. *Daniel*, 243 S.W. 2d 154, 157 (Texas 1951); *United States* v. *Jackson*, 158 F. 2d 700, 702 (CA5–1946)), with the result that of two possible constructions that one proposed by Kerr-McGee, as the least favorable to Phillips, should be adopted (*Stowers* v. *Harper*, 376 S.W. 2d 34, 41 (Texas Civ. App. 1964)).

Staff's contention that Art. VII of the Stanolind contract, expressly distinguishing "the price received" by Phillips and the "applicable base price" of the pipeline contract, requires a finding that use of the new period price in the rate formula does not depend upon any act of Phillips, cannot be accepted. As Sec. 3 of this Article expressly premises the fact that Michigan Wisconsin has "agreed to pay" the period's base price, the intent of the parties to the Stanolind contract again involves a selection between either of two possible constructions, and the surrounding facts and circumstances and main purpose matters, and the rule of strong construction, as hereinabove stated and considered, lead to the conclusion that the contention should be rejected.

In conclusion, therefore, Phillips, having failed to perform an obligation assumed by it under the pricing provisions of the amended Stanolind contract, may not be heard to object to the filing in this proceeding which, in reliance upon a proper construction as to the intention of the parties as expressed in the written terms of the amended contract, set forth a result that is consistent therewith.

FURTHER FINDINGS AND CONCLUSIONS

Upon the findings and conclusions and for the reasons hereinabove stated Phillips' request that the Commission reject Kerr-McGee's increased rate filing as unlawful because made without Phillips' contractual consent should be denied as hereinafter provided in the order included as a part of this decision; and upon the same bases and premises Staff's request that Kerr-McGee be required to refund, with applicable interest to the date of payment, amounts collected in excess of a base rate of 10.71495 cents per Mcf, plus applicable tax reimbursement, for the period from October 1, 1965, through December 9, 1965, should also be denied likewise as provided in the order which follows.

Action which Staff seeks in relation to its request that for the period following December 9, 1965, Kerr-McGee be required to refund, with applicable interest, amounts collected in excess of a base rate of 11.5961 cents[12] per Mcf, depends upon Commission action with respect to Phillips' renegotiated rate in Docket No. RI65-526. The request does not in fact concern the propriety of the filing of Kerr-McGee's Supp. No. 20, and does not relate to a relief now appropriate, but rather to matters which are under consideration in current area rate proceedings involving sales of natural gas produced from the Hugoton field area. In view of the foregoing and the suspension and refund obligations effected both in this Docket (No. RI66-81) and Docket No. RI65-526, *supra*, Staff's immediate request is denied, as provided in the order included as part of this decision.

Phillips' contention that its amendatory agreement with Michigan Wisconsin of January 18, 1965, though suspended upon filing, nullified its right to make further rate filings under provisions of the pipeline contract in effect prior thereto has no bearing upon its implied duty to have previously filed for the base rate increase and adjustment available to it August 1, 1964.

Proposed findings and conclusions inconsistent with those of this decision are herewith denied.

ORDER

Upon consideration of the record herein, the matters set forth in the briefs and contentions of respective counsel, and for the reasons and upon the findings and conclusions set forth in the foregoing portions of this decision, of which this order is a part,

IT IS BY THESE PRESENTS ORDERED, subject to review by the Commission on appeal, or on its own motion, as provided by its Rules of Practice and Procedure, that:

(A) Phillips' request that the filing by Kerr-McGee of its Supp. No. 20, to its FPC Gas Rate Schedule No. 12, be rejected for want of contractual consent be and the same is hereby denied;

(B) Staff's request that Kerr-McGee be now required to make certain refunds for the period October 1, 1965 through December 9, 1965, and for the period following the latter date, be and the same is hereby denied;

(C) Proceedings related to the issue of contractual authorization as stated in Commission's order issued herein November 2, 1965, be and the same are hereby terminated and dismissed.

EWING G. SIMPSON,
Presiding Examiner.

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[12] To reflect an adjustment of Kerr-McGee's base rate (7.1463¢), in the ratio of Phillips' filed renegotiated rate (15.22¢) placed in effect in Docket No. RI65-526 as of December 10, 1965, to Phillips' period base rate (9.3796¢).

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

WISCONSIN MICHIGAN POWER COMPANY, PROJECT NO. 2471

ORDER ISSUING LICENSE (MINOR)

(Issued November 16, 1966)

Application was filed on May 4, 1964, and amended on September 16, 1965, by Wisconsin Michigan Power Company (Applicant) of Appleton, Wisconsin, for a license under Section 4(e) of the Federal Power Act (Act) for constructed Project No. 2471, known as the Sturgeon Plant, located on the Sturgeon River, a tributary of the Menominee River, in Dickinson County, Michigan. No lands of the United States are affected by the project.

The project has been constructed and in operation since 1924, and it does not appear that there has been any substantial alteration to the project since 1924.

The Secretary of the Army and the Chief of Engineers have reported that the plans of the project structures affecting navigation are satisfactory insofar as the interest of navigation is concerned.

The Department of the Interior, in reporting on the application, recommended for inclusion in any license for the project, terms and conditions in the interests of fish and wildlife and recreational resources as set forth in attached Form L-9, and a special condition in the interest of fish resources set forth herein as Article 14.

The Department of Health, Education, and Welfare has advised that the project is not presently causing any water supply, pollution control, or vector control problems, and none is anticipated.

The Michigan Department of Conservation has advised that it has received a statement of Applicant's willingness to cooperate with the Department in providing for both public access and a canoe portage at the project, with the Department assuming the cost of any facilities at the access points, and that the Department plans to work out lease arrangements with Applicant or acquire needed lands for such purposes.

There is ample historical evidence of the use of the Sturgeon River and other tributaries of the Menominee River, such as the Pine, Paint and Brule, for the floating of great quantities of pine logs before the turn of the last century. Millions of feet of timber were driven down the East Branch of the Sturgeon River and down the latter river into the Menominee. Sturgeon Plant Project No. 2471 is situated on the Sturgeon River at river mile 7.8, approximately 22 miles below the confluence of the East and West Branches with the Sturgeon River.

For reasons set for in our Opinion No. 357 (27 FPC 830), the license herein granted shall have an effective date of April 1, 1962 and a termination date of December 31, 1993.

In our order on rehearing issued February 17, 1965, in *Wisconsin Power & Light Company, Project No. 2347, et al.* (33 FPC 275) we stated that we would have no objection to the issuance of licenses for minor projects without waiving Sections 14 and 15 of the Federal Power Act and the other provisions of the Act necessary to the effectuation of those sections, provided the minor project applications are timely supplemented pursuant to Section 4.50 of our Regulations under the Act (18 CFR § 4.50), which relates to applications for major projects.

In the event the applicant herein wishes a license in which those provisions of the Act are not waived it should so advise us within 30 days from the date of issuance of this order and file its supplemental application within 30 additional days thereafter.

The Commission finds:

(1) The Sturgeon River from its mouth in the Menominee River to points on the river upstream from Project No. 2471 is a navigable water of the United States.

(2) Sturgeon Plant Project No. 2471 is located on navigable waters of the United States.

(3) Applicant is a corporation organized under the laws of the State of Wisconsin, and has submitted satisfactory evidence of compliance with the requirements of all applicable State laws insofar as necessary to effectuate the purposes of a license for the project.

(4) Public notice of the filing of the application has been given. No protests or petitions to intervene have been received. No conflicting application is before the Commission.

(5) The project does not affect a Government dam, nor will the issuance of a license therefor, as hereinafter provided, affect the development of any water resources for public purposes which should be undertaken by the United States.

(6) Subject to the terms and conditions hereinafter imposed, the project will be best adapted to a comprehensive plan for improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, for the improvement and utilization of water-power development, and for other beneficial public uses, including recreational purposes.

(7) The installed horsepower capacity of the project hereinafter authorized for the purpose of computing the capacity component of the administrative annual charge is 1,070 horsepower, and the amount of annual charges, based on such capacity, to be paid under the license for the project, for the costs of administration of Part I of the Act is reasonable as hereinafter fixed and specified.

(8) It will be in the public interest to waive pursuant to Section 10(i) of the Act, the terms and conditions contained in the following sections of Part I of the Act:

> Sections 4(b), except the second sentence thereof; 4(e), insofar as it relates to approval of plans by the Chief of Engineers and the Secretary of the Army and to public notice; 6, insofar as it relates to public notice and to the acceptance and expression in the license of terms and conditions of the Act which are hereinafter waived; 10(c), insofar as it relates to depreciation reserves; 10(d); 10(f); 11; 12; 14, except insofar as the power of condemnation is reserved; 15; 19; 20; 22; and 23(a), insofar as it relates to the determination of fair value.

The Commission orders:

(A) This license is hereby issued to Wisconsin Michigan Power Company (Licensee) of Appleton, Wisconsin, under Sections 4(e) and 10(i) of the Act, for a period effective as of April 1, 1962 and terminating December 31, 1993, for the continued operation and maintenance of Sturgeon Plant Project No. 2471, located on the Sturgeon River, a tributary of the Menominee River, and a navigable water of the United States, in Dickinson County, Michigan, subject to the terms and conditions of the Federal Power Act insofar as not expressly waived herein, which Act is incorporated by reference as a part of this license, and subject to such rules and regulations as the Commission has issued or prescribed under the provisions of the Act.

(B) Sturgeon Plant Project No. 2471 consists of:

(i) all lands constituting the project area and enclosed by the project boundary or limits which are otherwise defined;

(ii) (a) A reinforced concrete dam—310 feet long and 53 feet high; (b) a 248 acre reservoir (normal surface elevation 928.6 feet); (c) an intake structure, a rock tunnel (240 feet long and 7 feet in diameter), and a steel penstock (48 feet long and 7 feet in diameter); and (d) a 21 foot by 34 foot reinforced concrete and brick powerhouse which contains one Westinghouse generator rated at 1,000 kva, one Francis type vertical turbine rated at 1,170 hp (66 foot head), and one 2.3/13.8 kv substation; and;

(iii) all other structures, fixtures, equipment, or facilities which are located in the project area and are useful in the maintenance and operation of the project; and all rights and interests the possession of which is necessary or appropriate in the maintenance and operation of the project.

(C) This license is also subject to the terms and conditions set forth in Form L-9 (July 1, 1964) entitled, "Terms and Conditions of License for Constructed Minor Project Affecting Navigable Waters of the United States" (32 FPC 577), which terms and conditions, designated as Articles 1 through 11, are attached hereto and made a part hereof, and subject to the following special conditions which are set forth herein as additional articles:

Article 12. The Licensee shall pay to the United States the following annual charge, effective April 1, 1962:

> For the purpose of reimbursing the United States for the costs of administration of Part I of the Act, $53.50 per annum.

Article 13. The Licensee shall, within one year from the date of issuance of this license, submit for Commission approval an Exhibit R for this project which conforms to § 4.41 Exhibit R of the Commission's Regulations under the Federal Power Act.

Article 14. The Licensee shall, for the conservation and development of fish resources, construct, maintain, and operate or arrange for the construction, maintenance, and operation of such fish passage facilities as may be ordered by the Commission upon its own motion or upon the recommendation of the Secretary of the Interior after notice and opportunity for hearing and upon findings based on substantial evidence that such facilities are necessary and desirable, reasonably consistent with the primary purpose of the project, and consistent with the provisions of the Act.

(D) The terms and conditions of the Act which it has been found above to be in the public interest to waive, are hereby excluded from this license.

(E) This order shall become final 30 days from the date of its issuance unless application for rehearing shall be filed as provided in Section 313(a) of the Act, and failure to file such an application shall constitute acceptance of this license. In acknowledgement of the acceptance of this license, it shall be signed for the licensee and returned to the Commission within 60 days from the date of issuance of this order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

LAB OIL COMPANY (OPERATOR), ET AL., DOCKET NO. RI66–39

ORDER ACCEPTING OFFER OF SETTLEMENT, REQUIRING FILING OF CONTRACT AMENDMENT, AND TERMINATING PROCEEDING

(Issued November 17, 1966)

On September 15, 1966, Lab Oil Company (Operator), *et al.*, (Lab) submitted an offer of settlement in this proceeding pursuant to Section 1.18(e) of the Commission's Rules of Practice and Procedure. The offer involves a proposed increased rate of 15¢ per Mcf for natural gas sold by Lab to Valley Gas Transmission, Inc. from the Rios Field, Duval County, Texas (Texas Railroad Commission District No. 4) under its FPC Gas Rate Schedule No. 10. Lab proposes to eliminate the periodic price provision from the subject rate schedule, and to charge a settlement rate of 15¢ per Mcf of natural gas at 14.65 psia for the remaining life of the contract. The proposed 15¢ per Mcf rate was suspended in Docket No. RI66–39, and thereafter allowed to become effective subject to refund as of February 1, 1966.

The proposed settlement is consistent with the provisions of the Second Amendment to the Commission's Statement of General Policy No. 61–1 (18 CFR 2.56) and its acceptance would serve the public interest.

However, we desire to make it clear that acceptance of Lab's offer of settlement shall not be construed as constituting approval of any future rate increases that may be filed under the subject rate schedule resulting from any possible future tax increase, and is without prejudice to any findings or orders of the Commission in any proceeding, including area rate or other similar proceeding, involving Lab's rate and rate schedule.

The Commission finds:

The proposed settlement of the above-designated proceeding, on the basis described herein, as more fully set forth in the offer of settlement filed with the Commission by Lab on September 15, 1966, is in the public interest and appropriate to carry out the provisions of the Natural Gas Act and should be approved and made effective as hereinafter ordered.

The Commission orders:

(A) The offer of settlement filed with the Commission by Lab on September 15, 1966, is approved in accordance with the provisions of this order.

(B) Lab shall file within 30 days from the date of issuance of this order an executed contract amendment to its FPC Gas Rate Schedule No. 10 eliminating the periodic price provision therefrom. The contractual amendment shall be submitted in accordance with Part 154 of the Commission's Regulations under the Natural Gas Act.

(C) Upon compliance by Lab, with the provisions of paragraph (B) above, the proceedings in Docket No. RI66–39 shall terminate.

(D) The acceptance by the Commission of Lab's offer of settlement is without prejudice to any findings now pending, or hereafter instituted by or against Lab including area rate or other similar proceedings.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

VILLAGE OF CIRCLE PINES, MINNESOTA v. NORTHERN NATURAL GAS COMPANY AND NORTH CENTRAL PUBLIC SERVICE COMPANY, DOCKET NO. CP67-17

ORDER DENYING APPLICATION FOR REHEARING

(Issued November 18, 1966)

On October 21, 1966, the village of Circle Pines, Minnesota (Circle Pines) filed an application for reconsideration or, alternatively, for rehearing[1] of our order issued September 23, 1966, 36 FPC 663 dismissing Circle Pines' complaint filed in the above-entitled proceeding. All of Circle Pines' arguments and assertions of error are unsupported by the facts and law on which Circle Pines seeks to rely and we are convinced that our original action dismissing Circle Pines' complaint was entirely correct.

Circle Pines first asserts that we erroneously assumed, contrary to the allegations in its complaint, that it does not have an allocation of gas from Northern Natural Gas Company (Northern) under Section 7 of the Natural Gas Act (Act) for use in Lino Lakes, Minnesota, a community adjacent to Circle Pines. Circle Pines contends that if it had been granted a hearing it would have shown that its original presentation in the proceeding in Docket No. G–17485, *et al.*, demonstrated by a map of its proposed distribution system that it intended to serve the community of Lino Lakes and that the Commission, in approving its request for an allocation of gas, necessarily authorized Northern to deliver a specific volume of gas to it for serving Lino Lakes. Circle Pines' contentions that we allocated to it a gas supply to serve Lino Lakes is neither supported by the record in Docket No. G–17485, *et al.*, nor by the exhibits attached to Circle Pines' application. At no place on any exhibit in Docket No. G–17485, *et al.*, or in any of the testimony by the five witnesses who appeared on behalf of Circle Pines in that proceeding is there any mention whatsoever of the village of Lino Lakes. Consequently, on July 31, 1959, when the Commission issued its order accompanying Opinion No. 324, 22 FPC 164, authorizing Northern to deliver a third-year volume of 1,352 Mcf of gas to Circle Pines, the Commission did not know, and could not have known on the basis of the facts in the record, that Circle Pines planned to use a portion of such allocation of gas for initiation of natural-gas service in the village of Lino Lakes.[2] Therefore, Circle Pines cannot use the proceeding in Docket No. G–17485, *et al.*, on a retroactive basis to predicate an argument that the original certificate issued to Northern authorizing it to deliver gas to Circle Pines included a specific allocation of gas for initiation of natural-gas service in Lino Lakes.

Circle Pines also argues that it would be contrary to Opinion No. 479,[3] for the Commission to permit North Central to use any excess gas, which may have resulted from our refusal to grant North Central's request for a reduction in its third-year contract demand certificated in Opinion No. 324, for the purpose of providing natural-gas service in Lino Lakes. The basis for our refusal to grant the reduction in contract demand requested by North Central was that it had not shown, as had the other petitioners in that proceeding, that it would suffer economic hardship from being required to purchase its third-year volumes because the reduction had been requested primarily to permit North Central to operate its propane peak-shaving plant with maximum efficiency. We do not see how the public interest would be served by imposition of restrictions on the manner in which North Central tries to sell any excess contract demand volumes which may have been caused by our denial of its request to reduce its contract demand purchases from Northern, especially since neither North Central nor Circle Pines has ever demonstrated in any proceeding or in any application filed with the Commission any specific need for gas to be used in Lino Lakes.

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[1] Hereinafter referred to as "application."

[2] The short answer to the contention that we allocated a volume of gas to Circle Pines for use in Lino Lakes is that the appendices to Opinion No. 324 list every community proposed for service in that proceeding. If Circle Pines had intimated that it planned to construct a distribution system in the village of Lino Lakes, the name of that village would have appeared in Appendix A in the group of communities which were proposed to be served by means of the Anoka branch line (22 FPC 180).

[3] *Northern Natural Gas Co., et al.*, Docket No. G–17485, *et al.*, issued October 14, 1965, 34 FPC 1139.

Circle Pines' argument that the pioneer doctrine applies in its case because it has already been providing service in Lino Lakes must be rejected because this is not a matter for our consideration since this contention again relates to the question of which of the contestants has a *bona fide* franchise.

Circle Pines' remaining arguments are procedural in nature and all relate to its contentions that we improperly denied it a hearing, after notice, prior to issuing our order dismissing its complaint. It argues that it is entitled to a hearing under Sections 5 and 7 of the Act and that since it showed that Northern had unduly discriminated against it by failing to honor its exclusive allocation of gas for providing natural-gas service in Lino Lakes, it was entitled to a hearing under Sections 5 and 7 to show that Northern has violated both of those sections.

As hereinbefore explained, Circle Pines has made no statements which show that Northern has failed to comply with the Act or with the Commission's rules and regulations promulgated thereunder. There are no material factual matters in dispute as Circle Pines admits that North Central's franchise authorizing construction of a distribution system in Lino Lakes is competitive with its franchise to serve the same community. Every contention made in support of the relief requested is legal in nature and relates to Circle Pines' erroneous argument that it received an exclusive allocation of gas to provide natural-gas service in Lino Lakes by the order accompanying Opinion No. 324. Since Circle Pines seeks to establish its receipt of an allocation of gas for Lino Lakes by references to the evidence it presented in a proceeding held over seven years ago in Docket No. G–17485, *et al.*, it must rely on that record as constituting factual support for its arguments about its having an exclusive allocation of gas for providing service in Lino Lakes. No hearing is required to entertain arguments based on a record which cannot be supplemented in 1966 to support a deficiency in evidence presented in 1959. It is well established that we need not hold a hearing to decide questions of law, as is indicated in *Sun Oil Co.* v. *F.P.C.*, 256 F. 2d 233 (CA5), certiorari denied, 358 U.S. 872, where the court stated (256 F. 2d 240–41):[4]

> * * * The only benefit that would have inured to Sun by notice and hearing would have been the privilege of making a legal argument before the Commission. We find no requirement in the Natural Gas Act for notice and hearing in such a situation. The opportunity to be heard on questions of law is not an inherent element of procedural due process in the determination of a procedural question. * * * .

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[4] *Cf. Virginia Electric and Power Co.* v. *F.P.C.*, 351 F. 2d 408, 410 (CA4).

The Commission finds:

The specifications of error advanced as grounds for rehearing or reconsideration in Circle Pines' application present no facts or legal principles which would warrant any change or modification in the Commission's order dismissing Circle Pines' complaint issued September 23, 1966, in Docket No. CP67-17.

The Commission orders:

The "Application of Village of Circle Pines for Reconsideration or Alternatively for Rehearing" filed October 21, 1966, in Docket No. CP67-17 is denied.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

CUMBERLAND AND ALLEGHENY GAS COMPANY, DOCKET NO. CP65-372

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued November 21, 1966)

On May 24, 1965, Cumberland and Allegheny Gas Company (Applicant) filed in Docket No. CP65-372 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities for the interruptible sale and delivery of natural gas to West Virginia Pulp and Paper Company (West Virginia Pulp) near Beryl, Piedmont District, Mineral County, West Virginia, all as more fully set forth in the application in this proceeding.

The facilities necessary for the sale to West Virginia Pulp are 0.98 mile of 8-inch (lateral) line and a regulating measuring station. Applicant states that West Virginia Pulp's maximum daily and annual requirements during 1966 are estimated to be 2,500 Mcf and 870,000 Mcf, respectively, and that by 1969 such requirements are estimated to increase to 3,500 Mcf per day and 1,353,000 Mcf annually.

The estimated cost of the subject facilities is $69,000, which cost will be financed from funds on hand.

West Virginia Pulp will utilize natural gas as fuel in a new lime reburning kiln.

By letter dated September 17, 1965, Applicant was issued a temporary certificate authorizing the subject proposals.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on November 18, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Cumberland and Allegheny Gas Company, a West Virginia corporation having its principal place of business in Pittsburgh, Pennsylvania, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of December 28, 1943, in Docket No. G-387 (4 FPC 472).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are to be used in the transportation and delivery of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof and the subject transportation and delivery of natural gas by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the subject facilities and the subject transportation and delivery of natural gas by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (c) (4) and (e) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Applicant, Cumberland and Allegheny Gas Company, to construct and operate the subject facilities and to transport and deliver natural gas as hereinbefore described, all as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (c) (4) and (e) of Section 157.20 of such Regulations.

(C) The interruptible service authorized herein shall be subject to any curtailment or interruption required to meet existing or future contracted maximum delivery obligations of Applicant for firm resale service to its customers.

(D) This order shall not be construed as having authorized or approved the allocation of service volumes among various rate schedules in Applicant's FPC Gas Tariff.

(E) Firm sale of natural gas by Applicant to Columbia Gas of Maryland, Inc. shall be limited to 40,000 Mcf per day.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

EL PASO NATURAL GAS COMPANY, DOCKET NO. G–1208

ORDER AMENDING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued November 21, 1966)

On September 7, 1966, El Paso Natural Gas Company (Petitioner) filed in Docket No. G–1208 a petition to amend the order issued in said docket on August 29, 1948 (8 FPC 1074), requesting the authorization for the continued operation of its Ajo Heights, Arizona, meter station for purposes of direct sale and delivery of natural gas to Arizona Public Service Company (Public Service), all as more fully set forth in the application.

The order issued in the instant proceeding authorized Petitioner, *inter alia*, to construct and operate a meter station at Ajo Heights, Arizona, and by means of such facility to sell and deliver natural gas to Arizona Edison Company, predecessor to Public Service, for resale and distribution in the community of Ajo Heights, Arizona. On July 28, 1951, by means of its Ajo Heights meter station Petitioner commenced the uncertificated direct sale and delivery of natural gas to Arizona Edison Company for use in its power plant situated near Ajo Heights. Apparently due to the Commission's requirement that natural gas pipeline companies furnish not only copies of direct sales contracts, but also evidence of authority to make the sale, Petitioner has learned that it does not have the necessary authority to make the direct sale. Accordingly, Petitioner hereby seeks authorization for the continued operation of the Ajo Heights meter station for the direct sale and delivery made to Public Service.

A new sales agreement was entered into between Petitioner and Public Service on July 15, 1965, providing for the delivery of up to 160 Mcf per day of natural gas in the summer months and 100 Mcf per day during winter months. In addition, Petitioner obligates itself to deliver, if possible, such additional volumes as may be required. The rate is that provided by Petitioner's Rate Schedule B–1. The agreement also covers sales and deliveries to three other plants of Public Service. Annual obligations to deliver and receive are for all four plants. Domestic consumers have priority to service, but if curtailment is made for other than *force majeure*, Petitioner must bear the cost of the substitute fuel. Deliveries to the Public Service plants other than the Ajo Heights plant have been previously authorized by the Commission.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's order issued in the instant docket on August 29, 1948, be amended as hereinafter ordered and conditioned.

The Commission orders:

(A) The Commission's order issued on August 29, 1948, in Docket No. G–1208 is amended so as to authorize the continued operation of Petitioner's Ajo Heights, Arizona, meter station for the direct sale and delivery of natural gas to the Arizona Public Service Company for use in its power plant situated near Ajo Heights, Arizona, as hereinbefore set forth and as more fully set forth in the petition to amend filed in this proceeding.

(B) The authorization granted by paragraph (A) above shall not entitle the industrial customer to which firm deliveries are authorized herein to any priorities to additional gas for meeting any future increases in its requirements at the expense of firm resale customers desiring to acquire additional gas to meet any future increases in their demands.

(C) In all other respects the original order shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

HUMBLE GAS TRANSMISSION COMPANY, DOCKET NO. CP67-68

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued November 21, 1966)

On September 19, 1966, Humble Gas Transmission Company (Applicant) filed an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction of certain natural gas facilities in order to connect additional gas supplies to its system for resale in existing markets, all as more fully set forth in the application.

Specifically, Applicant proposes to construct and operate two measuring stations in Richland Parish, Louisiana, for the receipt and transportation of natural gas to be purchased from Petroleum Management, Inc., produced from the Buckner Field, Richland Parish, Louisiana, and Joe G. Strahan, produced from the Richland Field Area, Richland, Caldwell, Ouachita, and Franklin Parishes, Louisiana.

The two purchases will add approximately 14,600,000 Mcf of natural gas to Applicant's available reserves. No change in Applicant's rates or sales is proposed.

The total estimated cost of the proposed facilities is $3,547, which cost will be financed from funds on hand.

After due notice, no protest, petition to intervene or notice of intervention has been filed herein.

At a hearing held on November 18, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Humble Gas Transmission Company, a Delaware corporation having its principal place of business in New Orleans, Louisiana, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order issued on January 29, 1963, in Docket No. CP63-56 (29 FPC 162).

(2) The facilities hereinbefore described and as more fully described in the application in this proceeding are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities are required by the public convenience and necessity, and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate hereinafter issued and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a),

(b), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of said Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Humble Gas Transmission Company authorizing the construction and operation of the facilities hereinbefore described and as more fully set forth in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of said Regulations.

(C) The facilities authorized shall be completed and placed in actual operation within 3 months of the date of this order as provided by paragraph (c) of Section 157.20 of the Commission's Regulations under the Natural Gas Act.

Before Commissioners: L. J. O'Connor, Jr., Acting Chairman; Charles R. Ross and John A. Carver, Jr.

PAN AMERICAN PETROLEUM CORPORATION, DOCKET NO. G-9279, ET AL.

ORDER ACCEPTING DECREASED RATE FILINGS, SEVERING AND TERMINATING PROCEEDINGS, AND REQUIRING REFUNDS

(Issued November 21, 1966)

Pan American Petroleum Corporation (Pan American) on January 24, 1966, filed a company-wide settlement proposal which was approved by the Commission's order issued on April 13, 1966, 35 FPC 502. Concurrently with its company-wide proposal, Pan American also filed unilateral rate decreases for four sales of natural gas made by it in South Louisiana which were not covered in its company-wide proposal.[1] Two of such sales were to Michigan Wisconsin Pipe Line Company[2] under Pan American's FPC Gas Rate Schedule Nos. 154 and 159 at a rate of 21.5¢ per Mcf of natural gas at 15.025 psia. The other two were made under Pan American's FPC Gas Rate Schedule Nos. 259 and 260 to Trunkline Gas Company at a rate of 23.8¢ per Mcf of natural gas at 15.025 psia. Pan American's decreased rate filings under these rate schedules are for 20¢ per Mcf of natural gas at 15.025 psia, to be effective January 1, 1966, which is the effective date of the settlement rates approved in our order of April 13, 1966.

Additionally, Pan American filed a concurrent proposal of withdrawal of a proposed rate increase under its FPC Gas Rate Schedule No. 297, for a sale of natural gas to United Gas Pipe Line Company (United) in South Louisiana which had been suspended by order of the Commission, and made effective subject to refund in Docket No. RI62-220. The proposed rate increase was from 20.25¢ to 23.30¢ per Mcf of natural gas at 15.025 psia. Withdrawal of its increase reduces the rate to the initial rate of 20.25¢ per Mcf as of January 1, 1966.

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[1] The filings were made contingent upon approval of Pan American's company-wide settlement proposal.

[2] Formerly American Louisiana Pipe Line Company.

Pan American also proposes to refund all monies charged and collected under this rate schedule above the 20.25¢ per Mcf of natural gas.

For all of the reasons stated in *Humble Oil & Refining Company*, Docket No. G-9287, *et al.*, 32 FPC 49, we shall order Pan American to retain the amount of refunds ordered herein until further action by the Commission directing their disposition.

Also Pan American proposes that the moratorium provision approved by us in our order of April 13, 1966, approving its company-wide settlement apply to these five rate schedules.

We find that acceptance of the decreased rate filings by Pan American, and withdrawal of its proposed increased rate in Docket No. RI62-220, to be in the public interest.

The Commission orders:

(A) The notices of change in rates filed by Pan American, January 24, 1966, designated as Supplement Nos. 9, 10, 3, and 3 to its FPC Gas Rate Schedule Nos. 154, 159, 259 and 260, respectively, reducing the rates from 21.5¢ and 23.8¢ to 20¢ per Mcf of natural gas at 15.025 psia are accepted for filing and made effective as of January 1, 1966, and its withdrawal of the proposed rate increase in Docket No. RI62-220 is approved.

(B) Pan American shall compute the difference between the rate collected subject to refund in Docket No. RI62-220 and 20.25¢ per Mcf for the period from May 18, 1962, to the date of this order, together with interest as specified in such docket to January 1, 1966. Pan American shall within 45 days from the date of this order submit a report to the Commission, and serve a copy on United Gas Pipe Line Company, setting out the amount of refund (showing separately the principal and applicable interest), the basis used for such determination and the period covered and a letter from United Gas Pipe Line Company agreeing to the correctness of such report.

(C) Pan American shall retain the amount shown in the report required under Paragraph (B) above, subject to further action of the Commission directing the disposition of such amount.

(D) If Pan American elects to commingle these retained refunds with its general assets and use them for its corporate purposes, it shall pay interest thereon at the rate of 5½% per annum on all funds thus available from the date of issuance of this order, to the date on which they are paid over to the person ultimately determined to be entitled thereto by final action of the Commission.

(E) If Pan American elects to deposit the retained refunds in a special escrow account, Pan American shall tender for filing 30 days from the date of issuance of this order, an executed Escrow Agreement, conditioned as set out below accompanied by certificate showing service of a copy thereof upon United Gas Pipe Line Company. Unless notified to the contrary by the Secretary within 30 days from the date of filing thereof, the Escrow Agreement shall be deemed to be satisfactory and to have been accepted for filing. The Escrow Agreement shall be entered into between Pan American and any bank or trust company used as a depository for funds of the United States Government and the Agreement shall be conditioned as follows:

(1) Pan American, the bank or trust company, and the successors and assigns of each, shall be held and formally bound unto the Federal Power Commission for the use and benefit of those entitled thereto, with respect to all amounts and the interest thereon, deposited in a special escrow account, subject to such Agreement, and such bank or trust company shall be bound to pay over to such

person or persons as may be identified and designated by final order of the Commission and in such manner as may be therein specified, all or any portion of such deposits and the interest thereon.

(2) The bank or trust company may invest and reinvest such deposits in any short-term indebtedness of the United States or any agency thereof, or in any form of obligation guaranteed by the United States which is, respectively, payable within 120 days as the said bank or trust company in the exercise of its sound discretion may select.

(3) Such bank or trust company shall be liable only for such interest as the invested funds described in Paragraph (2) above will earn and no other interest may be collected from it.

(4) Such bank or trust company shall be entitled to such compensation as is fair, reasonable and customary for its services as such, which compensation shall be paid out of the escrow account to such bank or trust company. Said bank or trust company shall likewise be entitled to reimbursement for its reasonable expenses necessarily incurred in the administration of this escrow account, which reimbursement shall be made out of the escrow account.

(5) Such bank or trust company shall report to the Secretary quarterly, certifying the amount deposited in the trust account for the quarterly period.

(F) Upon full compliance by Pan American with all the terms and provisions of this order, Docket No. RI62-220 shall terminate.

(G) Upon termination of Docket No. RI62-220, in accordance with Paragraph (F) above, said proceeding shall be severed from the consolidated proceedings in Docket No. AR61-2.

(H) This order is without prejudice to any findings or orders which have been or may be made hereafter by the Commission, and is without prejudice to claims or contentions which may be made by Pan American, the Commission staff, or any affected party hereto, in any proceedings now pending, including area rate or similar proceedings, or hereafter instituted by or against Pan American or any other companies, person or parties affected by this order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

TEXAS EASTERN TRANSMISSION CORPORATION, DOCKET NO. CP67-84

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued November 21, 1966)

On September 27, 1966, Texas Eastern Transmission Corporation (Applicant) filed in Docket No. CP67-84 an application pursuant to Section 7(c) of the Natural Gas Act, as implemented by Section 157.7(b) of the Regulations under the Act, for a certificate of public convenience and necessity authorizing the construction during the calendar year 1967 and the operation of certain facilities to enable Applicant to take into its certificated main pipeline system natural gas which will be purchased from producers thereof, all as more fully set forth in the application in this proceeding.

The purpose of this "budget-type" application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system new supplies of natural gas in various producing areas adjacent to said system.

The total cost of the proposed facilities will not exceed a maximum of $2,000,000, with no single project to exceed a cost of $500,000, which costs will be financed from cash on hand.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on November 18, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Texas Eastern Transmission Corporation, a Delaware Corporation with its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order issued on March 30, 1949, in Docket No. G–1089 (8 FPC 228).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Applicant should submit within 60 days after the expiration of the authorization granted hereinafter, a statement in compliance with subparagraph (3) of Section 157.7(b) of the Commission's Regulations under the Natural Gas Act.

(6) Public convenience and necessity require that the certificate hereinafter issued and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a) and (e) of Section 157.20 of said Regulations.

(7) The authorization hereinafter granted should be limited to construction during the calendar year 1967 and the total expenditures for facilities to be constructed thereunder should be limited to a maximum of $2,000,000, with no single project to exceed a cost of $500,000.

The Commission orders:

(A) Upon the terms and conditions of this order, a certificate of public convenience and necessity is issued authorizing Applicant, Texas Eastern Transmission Corporation, to construct during the calendar year 1967, the proposed facilities hereinbefore described, as more fully described in the application in this proceeding, and to operate such facilities only to take natural gas supplies from producers who have received authorization from the Commission to sell natural gas to said Applicant.

(B) Applicant shall submit within 60 days after the expiration of the authorization granted by paragraph (A) above a statement in compliance with subparagraph (3) of Section 157.7(b) of the Commission's Regulations under the Natural Gas Act.

(C) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a) and (e) of Section 157.20 of said Regulations.

(D) The authorization granted in paragraph (A) above is limited to construction during the calendar year 1967, and the total expenditures for facilities to be constructed thereunder are limited to a maximum of $2,000,000, with no single project to exceed a cost of $500,000.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

ALABAMA POWER COMPANY, DOCKET NO. E-6893

ORDER GRANTING REHEARING FOR PURPOSES OF FURTHER CONSIDERATION AND FIXING HEARING

(Issued November 23, 1966)

The Alabama Power Company on October 28, 1966, filed an application for rehearing of the Commission's order of September 28, 1966, 36 FPC 701, fixing payments of $296,003 to the United States for benefits provided in the Coosa River basin by the Federal Allatoona headwater improvement to the Company's downstream Weiss and Lay hydroelectric developments, Project No. 2146, and Mitchell and Jordan developments Project Nos. 82 and 618, respectively, during the period of January 1, 1961, through December 31, 1963. The order also provided that the Company pay $18,724 to reimburse the United States for the cost of the determination. Since the Company had previously made an interim or partial payment of $235,261, it was ordered to pay the balance of $79,466.

The Company contends that the Commission erred in the following respects. (1) Priority was not given to storage available in the Company's downstream projects. (2) The incremental unit cost of producing energy at alternative steam-generating facilities was improperly computed. (3) Account was not taken of the effect of evaporation on the quantities of water stored in and withdrawn from Allatoona reservoir. Additionally, the Company complains of the inclusion of general overhead charges in the cost of the determination.

The Commission finds:

It is appropriate and in the public interest in administering Part I of the Federal Power Act, particularly Section 10(f) thereof, that the Alabama Power Company's application for rehearing filed on October 28, 1966, of the Commission's aforesaid order of September 28, 1966, be granted and that a public hearing be held at a time and place to be fixed by subsequent notice of the Secretary of the Commission respecting the matters involved and issues presented in this proceeding.

The Commission orders:

(A) The Alabama Power Company's application for rehearing filed on October 28, 1966, of the Commission's aforesaid order of September 28, 1966, is hereby granted.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act, particularly Sections 10(f) and 308 thereof, and the Commission's Rules of Practice and Procedure, a public hearing shall be held, at a time and place to be fixed by subsequent notice of the Secretary of the Commission, respecting the matters involved and questions presented in this proceeding.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

KENTUCKY GAS TRANSMISSION CORPORATION AND UNITED FUEL GAS COMPANY, DOCKET NO. CP65-324

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND PERMITTING AND APPROVING ABANDONMENT

(Issued November 23, 1966)

On April 9, 1965, Kentucky Gas Transmission Corporation (Kentucky Gas) and United Fuel Gas Company (United Fuel), both wholly-owned subsidiary companies of The Columbia Gas System, Inc., filed in Docket No. CP65-324 a joint application pursuant to Sections 7(b) and 7(c) of the Natural Gas Act for permission and approval to abandon certain facilities within the Commonwealth of Kentucky and for a certificate of public convenience and necessity authorizing the construction, acquisition and operation of certain other facilities within said Commonwealth, all as more fully set forth in the joint application in this proceeding.

Applicants request authorization for the following projects:

(1) Kentucky Gas to abandon by retirement 3.2 miles of 12-inch pipeline in Martin County resulting in a net debit to retirement estimated at $51,951.

(2)(a) Kentucky Gas to abandon by sale to United Fuel 6.7 miles of 10-inch pipeline in Martin and Johnson Counties.

(b) United Fuel to acquire and operate said 6.7 miles of 10-inch line. United Fuel will pay the net book cost as of the date of transfer. United will use the subject line to tie together the two main parts of its transmission system leading north toward Kenova, Wayne County, West Virginia.

(3) Kentucky Gas to abandon by sale to Midcontinent Gas Production Corporation (Midcontinent), a non-affiliated company, 35.1 miles of 10-inch and 34.8 miles of 12-inch pipeline, together with appurtenant facilities, in Johnson and Morgan Counties. Midcontinent will pay $53,800 for said pipeline. Midcontinent will utilize the pipeline in a proposed utility service area in this general part of Eastern Kentucky.

(4) Kentucky Gas to construct at an estimated cost of $6,500 and operate measuring and regulating facilities in Morgan County in order to sell natural gas to Midcontinent for resale in peak day volumes as set forth in the attached appendix.

(5) Kentucky Gas to abandon by retirement 50.9 miles of 10-inch pipeline in Morgan, Menifee, Montgomery and Clark Counties resulting in a net debit to retirement estimated at $383,131. Kentucky Gas states that all markets depend upon this 10-inch line, with the exception of 5 of 23 domestic mainline tap customers of Columbia Gas of Kentucky, Inc. (Columbia-Kentucky), can be satisfied from the existing parallel 12-inch line. Further, Kentucky Gas states that Columbia-Kentucky has applied to the Public Service Commission of Kentucky for authority to abandon gas service to these five customers. Accordingly,

the abandonment authorization hereinafter granted is without prejudice to the parties in the proceeding before the Public Service Commission of Kentucky.

(6) Kentucky Gas to abandon by sale 16.4 miles of 10-inch pipeline, together with appurtenant facilities, in Clark and Fayette Counties to Columbia-Kentucky, an affiliated company of Applicants. Columbia-Kentucky will utilize the pipeline as a distribution main between the towns of Lexington and Winchester. Columbia-Kentucky will pay the net book cost as of the date of transfer.

(7) Kentucky Gas to abandon by retirement its Winchester Compressor Station resulting in a net debit to retirement estimated at $334,534. Kentucky Gas states that it does not require the subject compressor station for the operation of the 12-inch dual system line.

(8) Kentucky Gas to construct at an estimated cost of $595,000 and operate 11.1 miles of 12-inch pipeline in Fayette County to replace a segment of an existing 8-inch transmission line between Lexington and a point in Estill County. Because of the physical condition of this segment in an area of increasingly dense population and because of the anticipated growth in the Lexington market area, Kentucky Gas desires to replace the subject segment. By letter, dated May 11, 1965, Kentucky Gas was granted a temporary certificate authorizing project 8.

Applicants state that the purpose of the requested authorizations is to eliminate duplication in the transmission system of Kentucky Gas lying in Eastern Kentucky, generally between the Town of Inez, Martin County, on the east, and the City of Lexington, Fayette County, on the west. Pursuant to the authorization granted by the Commission in its order issued October 10, 1962, in Docket Nos. CP62–238 and CP62–239, Kentucky Gas acquired a 12-inch pipeline substantially parallel to an existing 10-inch line and Kentucky Gas then advised the Commission that it would make complete operational and engineering studies of the two pipelines and the areas served thereby, and thereafter make an appropriate request to the Commission for approval to abandon duplicate facilities. The subject joint application is the result of those operational and engineering studies.

Cost of the proposed construction will be financed from current income and by certain financial arrangements with Applicants' parent, The Columbia Gas System, Inc.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on November 18, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the joint application and exhibits, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Kentucky Gas Transmission Corporation, a Delaware corporation having its principal place of business in Charleston, West Virginia, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of August 10, 1956, in Docket No. G–9689 (16 FPC 437).

(2) Applicant, United Fuel Gas Company, a West Virginia corporation having its principal place of business in Charleston, West Virginia, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of March 1, 1944, in Docket No. G–341 (4 FPC 534).

(3) The facilities hereinbefore described, as more fully described in the joint application in this proceeding, are to be used in the transportation and/or sale of natural gas in interstate commerce, subject to the jurisdiction of the Commis-

sion, and the construction and operation thereof and the proposed transportation and sale of natural gas by Kentucky Gas and the acquisition and operation by United Fuel are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(4) Applicants are able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(5) The proposed construction, acquisition and operation of the subject facilities by Applicants and the proposed transportation and sale of natural gas by Kentucky Gas are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(6) Public convenience and necessity require that the certificates issued hereinafter and the rights granted thereunder be conditioned upon Applicants' compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(3), (c)(4), (d) and (e) of Section 157.20 of such Regulations.

(7) The facilities to be abandoned, as hereinbefore described, are subject to the jurisdiction of the Commission and the abandonment of such facilities is subject to the requirements of Subsection (b) of Section 7 of the Natural Gas Act.

(8) Such abandonment by Kentucky Gas, as hereinbefore described, is permitted by the public convenience and necessity, and an order authorizing and approving same should be issued as hereinafter ordered.

(9) The abandonment authorization hereinafter granted with respect to the above-described project 5 should be without prejudice to the parties in the proceeding before the Public Service Commission of Kentucky.

The Commission orders:

(A) Certificates of public convenience and necessity are issued authorizing Applicants, Kentucky Gas Transmission Corporation and United Fuel Gas Company, to construct, acquire and operate the proposed facilities and authorizing Kentucky Gas to sell and deliver natural gas, as hereinbefore described, all as more fully described in the joint application herein, upon the terms and conditions of this order.

(B) The certificates issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicants' compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(3), (c)(4), (d) and (e) of Section 157.20 of such Regulations.

(C) The construction, other than that already completed pursuant to the temporary certificate, and acquisition authorized by paragraph (A) above shall be completed and the subject facilities placed in actual operation, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within 12 months from the date on which this order issues.

(D) This order shall not be construed as having authorized or approved the allocation of service volumes among various rate schedules in Applicants' respective FPC Gas Tariffs.

(E) Firm sales of natural gas by Kentucky Gas to its respective customers shall be limited to the maximum daily volumes as set forth in the appendix attached to this order.

(F) Permission for and approval of the abandonment by Kentucky Gas of facilities hereinbefore described, all as more fully described in the joint application in this proceeding, are granted.

(G) Kentucky Gas shall advise the Commission of the date of said abandonments within 10 days of the date thereof.

(H) The abandonment authorization granted in paragraph (F) above with respect to the above-described project 5 is without prejudice to the parties in the proceeding before the Public Service Commission of Kentucky.

APPENDIX

Kentucky Gas Transmission Corporation, Docket No. CP65–324

Maximum Daily Obligation Under Rate Schedules Providing Firm Service to Jurisdictional Customers

Customers	*Maximum daily Obligation*[1] *(Mcf/day) (14.73 psia)*
Cincinnati Gas & Electric Company, The	373, 300
City of Augusta	995
City of Brooksville Utilities System	253
City of Carlisle	2, 000
City of North Middletown	250
Columbia Gas of Kentucky, Inc	136, 000
Delta Natural Gas Company:	
Frenchburg Service Area	325
Owingsville Service Area	1, 350
Sharpsburg Service Area	325
Camargo Service Area	500
Delta Natural Gas of Stanton, Inc	2, 000
Elam Utility Company	900
Limestone Gas Company	12, 500
Midcontinent Gas Production Corporation	100
Mount Olivet Natural Gas Company, Inc	400
Pendleton County Water District	600
Petroleum Exploration	1, 500
Richmond, Ky., The Board of Public Works of The City of	7, 500
Union Light, Heat and Power Company, The	98, 300
Vanceburg Electric Light, Heat and Power System	970
Western Lewis—Rectorville Water District	600
Total	640, 368

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[1] Effective November 1, 1966.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY, WASHINGTON, PROJECT NO. 2624

ORDER PERMITTING WITHDRAWAL OF APPLICATION FOR LICENSE FOR UNCONSTRUCTED MINOR PROJECT

(Issued November 23, 1966)

On October 10, 1966, Public Utility District No. 1 of Chelan County, Washington (Applicant) filed application for Commission permission to withdraw its application filed on September 19, 1966, for license for unconstructed minor Project No. 2624 proposed to be located on Company Creek, a tributary of the Stehekin River, in Chelan County, Washington, and to be situated entirely within the Wenatchee National Forest.

The proposed project is to consist of a 6-foot high rock-filled timber-crib diversion dam across Company Creek, with an intake to a 24-inch steel pipeline about 3,000 feet long leading to a frame powerhouse containing a 200 kw (267 horsepower) hydroelectric turbine-generator unit, and a 150 kw diesel standby installation. The project would supply power to the community of Stehekin, Washington.

According to the application to withdraw, Applicant has applied to the U.S. Forest Service for a Special Use Permit to construct the project. Pursuant to an agreement between the Commission and the Forest Service, such projects (not more than 2,000 horsepower installed capacity located within National Forests) may be authorized by the Forest Service by Special Use Permits, subject to Federal Power Commission authority to license the project if and when invoked.

The Commission finds:

In the circumstances, it is appropriate to permit withdrawal of the application for license for the proposed project as hereinafter provided.

The Commission orders:

(A) Permission to withdraw the application for license for proposed minor Project No. 2624 is hereby granted, and this proceeding is hereby terminated.

(B) Public Utility District No. 1 of Chelan County, Washington shall file with the Commission's Secretary a copy of the Forest Service Special Use Permit for the project within 30 days of the date of its issuance.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

ALABAMA POWER COMPANY, PROJECT NO. 2146

ORDER APPROVING RECREATIONAL USE PLAN SUBJECT TO SUBSEQUENT REVISED FILING

(Issued November 25, 1966)

On February 23, 1965, the Alabama Power Company, Licensee for Project No. 2146, filed a Recreational Use Plan pursuant to Article 51 of its license. Licensee states that the plan is submitted in general terms with many details to be arranged upon receipt of general approval of the Commission. Licensee indicates that the proposed boat launching and other recreational areas will be cooperative developments; the Licensee to provide the land, the Alabama State Conservation Department to develop the boat launching and parking facilities and the county or other local interests to provide roads, rest rooms, picnic areas, camp sites and other needed facilities.

The Department of the Interior in reporting on the proposed plan indicates that the access areas at the Logan Martin, Lay and Lock Three impoundments are adequate and recommends additional access areas at the Weiss Development. It also recommends that provisions be made for accommodating picnicking, camping and swimming activities at the development. It also recommended that further development of Licensee's plan be coordinated with the statewide comprehensive outdoor recreation plan now under preparation by the State of Alabama. The Department of Health, Education, and Welfare's report on the plan contained a recommendation of the Alabama Department of Public Health that the Alabama Power Company assume a more direct responsibility in regard to water supply, sewage disposal, solid waste disposal and food service facilities. Licensee has advised that it will cooperate with these agencies in implementing their recommendations.

The State of Alabama Department of Conservation has approved the plan from a recreation standpoint.

The Commission finds:

The Recreational Use Plan as filed by the Licensee should be approved subject to a subsequent filing, as hereinafter provided, of a revised plan setting forth details of all present and proposed project recreational lands and facilities.

The Commission orders:

The Recreational Use Plan as filed by the Licensee is approved subject to the filing of a revised plan on or before September 30, 1968, for Commission approval, setting forth details of all present and proposed project recreational lands and facilities for the project.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

ALABAMA POWER COMPANY, PROJECT NO. 2146

ORDER AUTHORIZING APPROVAL OF REVISIONS IN BRIDGE DESIGN

(Issued November 25, 1966)

On September 6, 1966, the Alabama Power Company, licensee for Project No. 2146, advised the Harbert Construction Corporation, acting on behalf of the Waters Development Corporation, the owner of Island No. 6 in the Logan Martin Reservoir, had requested approval of revisions in the design and specifications for a bridge to be installed in Causeway No. 6. The company forwarded the revised plans for the bridge and stated that the plans had been approved by the County Engineer for St. Clair County, Alabama. The company requested permission to grant approval of the plans.

The Commission finds:

It is appropriate and in the public interest in administering Part I of the Federal Power Act that the Alabama Power Company be authorized to approve the revised plans filed on September 6, 1966, for a bridge in Causeway No. 6 in the Logan Martin Reservoir. Project No. 2146.

The Commission orders:

The Alabama Power Company is hereby authorized to approve the revised plans filed on September 6, 1966, for a bridge in Causeway No. 6 in the Logan Martin Reservoir of Project No. 2146.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

ARKANSAS LOUISIANA GAS COMPANY, DOCKET NO. CP67-83

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued November 28, 1966)

On September 26, 1966, Arkansas Louisiana Gas Company (Applicant) filed in Docket No. CP67-83 a "budget-type" application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(c) of the Regulations under the Act for a certificate of public convenience and necessity authorizing the construction during the calendar year 1967 and the operation of transportation facilities for the purposes of making direct sales of natural gas, all as more fully set forth in the application.

Applicant proposes to utilize the facilities for direct sales to diverse customers within its distribution area. The application states further that the maximum delivery to any one customer will not exceed 100,000 Mcf annually and will not be used for boiler fuel purposes, as defined by Section 157.7(c)(9) of the Commission's Regulations under the Natural Gas Act.

The total estimated cost of the proposed construction will not exceed $300,000.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on November 23, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization, and upon consideration of the record,

The Commission finds:

(1) Applicant, Arkansas Louisiana Gas Company, a Delaware corporation having its principal place of business in Shreveport, Louisiana, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of January 26, 1943, in Docket No. G-252 (3 FPC 910).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are proposed to be used in the transportation and delivery of natural gas in interstate commerce and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e), (f) and (g) of Section 157.20 of said Regulations.

(6) The authorization hereinafter granted should be limited to construction during the 12 month period following the issuance of this order. The total expenditures for facilities to be constructed thereunder should be limited to a maximum of $300,000, with the total deliveries to any one customer not to exceed a maximum of 100,000 Mcf of natural gas per year.

(7) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Applicant should submit within 60 days after the expiration of the authorization granted hereinafter, a statement in compliance with Section 157.7(c)(8) of the Commission's Regulations under the Natural Gas Act.

(8) The certificate issued hereinafter should be conditioned upon Applicant's compliance with the provisions of Section 157.7(c)(7) of the aforesaid Regulations.

The Commission orders:

(A) Upon the terms and conditions of this order, a certificate of public convenience and necessity is issued authorizing Applicant, to construct during the year 1967, the proposed facilities hereinbefore described, as more fully described in the application in this proceeding, and to operate such facilities to sell natural gas to direct customers as hereinafter provided.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e), (f) and (g) of Section 157.20 of said Regulations.

(C) The authorization granted in paragraph (A) above is limited to construction during the year 1967. The total expenditures for facilities to be constructed thereunder are limited to a maximum of $300,000, with the total deliveries to any one customer limited to a maximum of 100,000 Mcf of natural gas per year.

(D) Applicant shall submit within 60 days after the expiration of the authorization granted by paragraph (A) above a statement in compliance with Section 157.7(c)(8) of the Commission's Regulations under the Natural Gas Act.

(E) The certificate issued by paragraph (A) above is expressly conditioned upon Applicant's compliance with the provisions of Section 157.7(c)(7) of the aforesaid Regulations and, further, shall not entitle any industrial customer to whom firm deliveries are authorized herein to any priorities or rights to additional gas for meeting any future increases in their requirements at the expense of firm resale customers desiring to acquire additional gas to meet any future increases in their requirements.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

CITIES SERVICE GAS COMPANY, DOCKET NO. CP67-92

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued November 28, 1966)

On October 11, 1966, Cities Service Gas Company (Applicant) filed in Docket No. CP67-92 a "budget-type" application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(c) of the Regulations under the Act for a certificate of public convenience and necessity authorizing the construction during the calendar year 1967 and operation of certain transportation and metering facilities, all as more fully set forth in the application.

Applicant seeks authorization to construct and operate such gathering and appurtenant facilities to enable it to take into its certificated main pipeline system natural gas which will be purchased from producers in an area coextensive with its system.

The total cost of the proposed facilities will not exceed a maximum of $2,000,000, and no single project will exceed a cost of $500,000, which cost will be financed from treasury cash.

After due notice of the filing of the application no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on November 23, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Cities Service Gas Company, a Delaware corporation having its principal place of business in Oklahoma City, Oklahoma, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of December 28, 1943, in Docket No. G-298 (4 FPC 471).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Applicant should submit within 60 days after the expiration of the authorization granted hereinafter, a statement in compliance with Section 157.7(b)(3) of the Commission's Regulations under the Natural Gas Act.

(6) Public convenience and necessity require that the certificate hereinafter issued and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e), (f) and (g) of Section 157.20 of said Regulations.

(7) The authorization hereinafter granted should be limited to construction during the calendar year 1967 and the total expenditures for facilities to be constructed thereunder should be limited to a maximum of $2,000,000, with no single project to exceed a cost of $500,000.

The Commission orders:

(A) Upon the terms and conditions of this order, a certificate of public convenience and necessity is issued authorizing Applicant to construct during the calendar year 1967 the proposed facilities hereinbefore described, as more fully described in the application in this proceeding, and to operate such facilities only to take natural gas supplies from producers who have received authorization from the Commission to sell natural gas to said Applicant.

(B) Applicant shall submit within 60 days after the expiration of the authorization granted by paragraph (A) above statements under oath in compliance with Section 157.7(b)(3) of the Commission's Regulations under the Natural Gas Act.

(C) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e), (f) and (g) of Section 157.20 of said Regulations.

(D) The authorization granted in paragraph (A) above is limited to construction during the calendar year 1967, and the total expenditures for facilities to be constructed thereunder are limited to a maximum of $2,000,000, with no single project to exceed a cost of $500,000, and shall not be interpreted as authorization to attach new customers or to increase the volume of sales to existing customers.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

GENERAL AMERICAN OIL COMPANY OF TEXAS, DOCKET NO. RI66–274 AND A. H. MEADOWS, DOCKET NO. RI66–275

ORDER TERMINATING PROCEEDINGS

(Issued November 28, 1966)

By order issued March 28, 1966, 35 FPC 423, the Commission granted an application for rehearing, filed by General American Oil Company of Texas (General American) and A. H. Meadows (Meadows), of the Commission's order issued February 2, 1966, 35 FPC 177, in these proceedings suspending for the statutory period the proposed increased rates of 14.8479¢ per Mcf[1] for respondents' jurisdictional sales of casinghead gas to El Paso Natural Gas Company (El Paso) in the Permian Basin Area of Texas. The proposed increased rates are designated as Supplement Nos. 6 and 3 to General American's FPC Gas Rate Schedule No. 32 and Meadows' FPC Gas Rate Schedule No. 1, respectively. The proposed effective date for each of the filings was February 3, 1966.

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[1] Base rate less contractual deduction for gathering, treating and compression, plus tax reimbursement.

The proposed rates were suspended because the quality statements tendered concurrently with the increased rate filings were based on the quality of the gas at the wellhead rather than on the quality of the residue gas. It appeared at the time that respondents were paid on the basis of residue volumes, and thus the quality of the gas should be determined at that point in accordance with Opinion Nos. 468 and 468–A, 34 FPC 159, 1068. The quality statements submitted with the proposed rates were therefore rejected in the February 2 order.

The Commission has since been advised by respondents as well as the purchaser, El Paso, that the gas delivered under the aforementioned rate schedules has always been delivered and metered at the lease and that payment for the gas is made on the basis of wellhead volumes. Accordingly, the proper point for determining the quality of the subject gas under Opinion Nos. 468 and 468–A is at the wellhead. The revised quality statements filed by General American and Meadows on July 11 and 15, 1966, respectively, which reflect a 15.32¢ per Mcf price ceiling for the subject sales were therefore accepted for filing by order issued August 26, 1966, 36 FPC 535, in Docket No. AR61–1. This is the same price ceiling reflected in the quality statements rejected by the February 2 order. The previously rejected quality statements have thus proven to be acceptable. For this reason, it is appropriate to vacate the subject suspension proceedings and to permit the proposed rates to become effective as of February 3, 1966.

The Commission finds:

For the foregoing reasons, good cause exists for vacating the proceedings herein and for permitting said Supplement Nos. 6 and 3 to be effective as of February 3, 1966.

The Commission orders:

(A) The proceedings in Docket Nos. RI66–274 and RI66–275 are vacated.

(B) Supplement No. 6 to General American's FPC Gas Rate Schedule No. 32 and Supplement No. 3 to Meadows' FPC Gas Rate Schedule No. 1 are accepted effective as of February 3, 1966.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

HOME GAS COMPANY, DOCKET NO. CP67–76

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued November 28, 1966)

On September 22, 1966, Home Gas Company (Applicant) filed in Docket No. CP67–76 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities in Cattaraugus County, New York, in order to increase deliveries of off-peak gas to Columbia Gas of New York, Inc. (Columbia Gas), an affiliate of Applicant, for ultimate industrial use by Felmont Oil Corporation (Felmont) in the Olean, New York area, all as more fully set forth in the application.

Specifically, Applicant proposes to construct and operate 4 miles of 12-inch pipeline extending northeastward from a point near the Pennsylvania-New York State Line to a point of tie-in with Applicant's existing system near the City of Olean, New York.

The construction of the proposed 12-inch diameter pipeline will enable applicant to meet the immediate and long range volumetric and pressure requirements in the Olean, New York area and will advance Applicant's present long range plans to replace the western part of its system with 1,000 psig, 12-inch diameter pipeline.

No change in Applicant's existing rate is proposed. Applicant has filed its new service agreement with Columbia Gas covering the new delivery point.

The estimated total cost of the proposed facilities is $260,000 which Applicant proposes to finance through the issuance and sale of promissory notes and/or common stock to its parent company, The Columbia Gas System, Inc.

After due notice, no protest, petition to intervene or notice of intervention has been filed herein.

At a hearing held on November 23, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Home Gas Company, a New York corporation having its principal place of business in Pittsburgh, Pennsylvania, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of January 5, 1943, in Docket No. G–345 (3 FPC 895).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding are to be used in the transportation and delivery of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (b), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Applicant, Home Gas Company, to construct and operate the proposed facilities as hereinbefore described and as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

(C) The facilities authorized by paragraph (A) above shall be constructed and placed in actual operation, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within six months from the date on which this order issues.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

CITY OF LAWRENCEVILLE, GEORGIA AND TRANSCONTINENTAL GAS PIPE LINE CORPORATION, DOCKET NO. CP65-136

FINDINGS AND ORDER DIRECTING A RELOCATION OF A PHYSICAL CONNECTION OF FACILITIES

(Issued November 28, 1966)

On November 12, 1964, the City of Lawrenceville, Georgia (Applicant), filed in Docket No. CP65-136 an application pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Transcontinental Gas Pipe Line Corporation (Respondent) to abandon the present physical connection of its natural gas transmission facilities and to establish physical connection with the facilities of Applicant at a new location, all as more fully set forth in the application.

Applicant, an existing customer of Respondent, requested, in the above-referenced application an order directing Respondent to abandon its present point of delivery, over 17 miles from the town of Lawrenceville, and provide a new point of delivery only 3.8 miles from Lawrenceville on the new lateral pipeline from Monroe, Georgia, to Ball Ground, Georgia, proposed by Respondent in its second amendment to its application filed in Docket No. CP64-270, *et al.*

Action by the Commission was deferred pending final disposition of Respondent's application in Docket No. CP64-270. By order issued on September 9, 1966, 36 FPC 610, Respondent was authorized to construct and operate, *inter alia*, the Monroe-Ball Ground lateral pipeline.

Applicant presently receives gas from Respondent at Walnut Grove, Georgia. The gas is transported some 17 to 20 miles through a transmission pipeline constructed of salvaged thin-wall tubing, installed in 1951. This pipeline, presently corroded in many places, is being operated at 280 psi, the maximum pressure for safe service in the area. The major portion of gas transported through this line is consumed in Lawrenceville.

The proposed delivery point will enable Applicant to receive natural gas from Respondent at a location close to its main market area. Utilization of the new delivery point will reverse the flow of gas and reduce the pressure in, and the volumes transported by the old thin-wall line and contribute to the safety of operation.

Applicant proposes to construct approximately 3.8 miles of 6-inch pipeline from the proposed relocation delivery point, replacing existing pipeline.

The total estimated cost of Applicant's proposed facilities is $69,500, which cost will be financed by means of funds on hand.

On December 11, 1965, Respondent filed an answer to the application herein, offering no objection to the issuance by the Commission of an order as requested by Applicant. On September 19, 1966, Respondent filed with the Commission an amended answer in which it again stated that it had no objection to providing the requested new delivery point and abandonment of the existing one.

After due notice, no protest, petition to intervene or notice of intervention has been filed herein.

The Commission finds:

(1) Respondent, Transcontinental Gas Pipe Line Corporation, a Delaware corporation with its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of April 28, 1950, in Docket No. G-1277 (9 FPC 32).

(2) Applicant, City of Lawrenceville, Georgia, a corporation organized and existing under the laws of the State of Georgia, is authorized to construct and operate natural gas facilities and distribute and sell natural gas as proposed.

(3) It is necessary and desirable in the public interest that Respondent be directed to establish physical connection of its natural gas transmission facilities with the proposed facilities of Applicant, as set forth in the application and as hereinafter ordered and conditioned.

(4) The requirement that Respondent serve Applicant, as proposed, will not place any undue burden upon Respondent nor impair its ability to render adequate service to its existing customers.

The Commission orders:

(A) Respondent is directed to establish physical connection of its natural gas transmission system with the facilities to be constructed by Applicant, all as hereinbefore described and as more fully described in the application.

(B) Respondent shall notify the Commission of the commencement of service within 10 days thereof.

(C) Respondent shall execute and file with the Commission a service agreement with Applicant in accordance with the Commission's Regulations, reflecting the subject change in delivery point.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

NORTHERN INDIANA FUEL AND LIGHT COMPANY, INC. AND MICHIGAN WISCONSIN PIPE LINE COMPANY, DOCKET NO. CP67-59

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued November 28, 1966)

On September 8, 1966, Northern Indiana Fuel and Light Company, Inc. (Applicant), filed in Docket No. CP67-59 an application pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Michigan Wisconsin Pipe Line Company (Respondent) to establish physical connection of its transportation facilities with the facilities proposed to be constructed by Applicant and to sell and deliver to Applicant volumes of natural gas for resale in the Cities of Ashley, Hudson, Hamilton, Fremont, and Clear Lake, and their environs, in Steuben County, Indiana, all as more fully set forth in the application.

Applicant proposes to construct and operate distribution systems in the Cities of Ashley, Hudson, Hamilton, Fremont, and Clear Lake, Steuben County, Indiana, and environs, which systems will be connected to Respondent's 15.7 mile lateral extension line, to be constructed in accordance with Respondent's present lateral extension policy, by means of a feeder line system consisting of 1.7 miles of 6-inch line and .8 mile lateral extension from Respondent's existing transmission line near Hudson, Indiana to serve the communities of Ashley and Hudson.[1]

Applicant estimates the total estimated cost of construction of its proposed feeder and distribution systems to be $605,950, which cost will be financed through a sinking fund and sale of common stock.

The total estimated volumes of natural gas involved to meet Applicant's annual and peak day requirements for the initial three year period of proposed operations are stated to be:

	1st year	2d year	3d year
Annual (Mcf)	284,250	424,722	498,945
Peak day (Mcf)	2,025	2,999	3,730

On October 12, 1966, Respondent filed an answer to the application and stated therein it had no objection to the entry of an order requiring it to provide the requested service and to construct under its 10¢ formula two service laterals, one approximately 15.7 miles in length to provide service to Hamilton, Fremont, and Clear Lake, and the other approximately .8 mile in length to provide service to Ashley and Hudson.

Due notice of the filing of the application and opportunity for hearing thereon has been given by publication in the Federal Register on September 21, 1966 (31 F.R. 12491). No protest, petition to intervene or request for hearing has been filed in this proceeding.

The Commission finds:

(1) Respondent, Michigan Wisconsin Pipe Line Company, a Delaware corporation having its principal place of business in Detroit, Michigan, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of November 30, 1946, in Docket No. G–669 (5 FPC 953).

(2) Applicant is legally authorized to engage in the local distribution of natural gas to the public within the meaning of Section 7(a) of the Natural Gas Act.

(3) It is necessary and desirable in the public interest to direct Respondent to establish physical connection of its transmission facilities with the facilities proposed to be constructed and operated by Applicant, and to sell and deliver to Applicant under a service agreement to be executed by Applicant with Respondent in accordance with the Commission's Regulations, up to 3,730 Mcf per day of natural gas for distribution and resale as hereinbefore described and as more fully described in the application in this proceeding.

(4) The requirement that Respondent serve Applicant as hereinafter ordered, will not impair Respondent's ability to render adequate service to its existing customers.

(5) Applicant should be prepared to receive natural gas from Respondent for distribution in Ashley, Hudson, Hamilton, Fremont, and Clear Lake and environs in Steuben County, Indiana, within one year from the date of issuance of this order.

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[1] Applicant has acquired a franchise from each of the five communities and has applied for a certificate from the Public Service Commission of Indiana.

The Commission orders:

(A) Respondent is directed to establish physical connection of its facilities with the facilities proposed to be constructed and operated by Applicant, as herein described, and to sell and deliver up to 3,730 Mcf of natural gas daily to Applicant under a service agreement to be executed by Applicant with Respondent in accordance with the Commission's Regulations. Such service shall be rendered pursuant to Respondent's currently filed SGS–1 Rate Schedule.

(B) Respondent shall report to the Commission in writing the date of commencement of service to Applicant within 15 days after such service begins.

(C) Applicant shall be prepared to receive service as directed herein within one year from the date of issuance of this order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

NORTHERN NATURAL GAS COMPANY, DOCKET NO. CP67–47 (PHASE I)

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued November 28, 1966)

On August 26, 1966, Northern Natural Gas Company (Applicant) filed in Docket No. CP67–47 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction, in two phases, and the operation of certain natural gas facilities in order to facilitate the delivery of increased volumes of natural gas to two existing distribution customers for resale to five industrial customers, all as more fully set forth in the application.

The aforementioned industrial customers and the increased contract demand requested are as follows:

Distributor *Industrial Customer:*	*Increase in contract demand (Mcf per day)*
Iowa Public Service Company:	
Deere and Company	1,200
Oliver Corporation	1,800
Peoples Division of Applicant:	
Central Dairy Cooperative	215
Minnesota Malting Company	950
Cleveland-Cliffs Iron Company	2,120
	6,285

All of the above industrial customers are presently receiving gas service. Cleveland-Cliffs is receiving firm service and the others are receiving interruptible service.

Specifically, Applicant proposes to construct and operate the following facilities:

Phase I—A 6,000 horsepower addition at the Beaver, Oklahoma, Compressor Station,

Phase II—11 miles of 30-inch loop pipeline north of the Ogden, Iowa, Compressor Station.

Applicant has pending in Docket No. CP66–212 (Great Lakes Proceedings) an application, which if granted would obviate the need for the Phase II facilities. Applicant presently has allocated but unused natural gas capacity resulting from the certificated third year capacity of communities now in their first or second year of service and by utilizing this capacity, and installing the Phase I facilities, will be able to meet the requested increases. Accordingly, Applicant, at this time, requests that a certificate be issued authorizing the Phase I facilities only. If a final decision is not issued in Docket No. CP66–212 in time for Applicant to assure its customers adequate service during the 1967–68 heating season, it will file to amend any certificate issued in the subject docket to include authorization to construct the Phase II facilities.

The proposed delivery of an additional 2,120 Mcf per day of natural gas to Cleveland-Cliffs will increase Cleveland-Cliffs present contract demand from 28,160 to 30,280 Mcf per day. However, Cleveland-Cliffs has until April 1, 1967, to notify Applicant of the precise contract demand it will require and this may range from 28,160 to 30,280 Mcf of gas per day. In the event Cleveland-Cliffs exercises its right to reduce the proposed daily volume of 2,120 Mcf, Applicant shall be required to file a petition to amend the certificate granted herein so as to authorize such lower contract demand.

The total estimated cost of Applicant's Phase I facilities is $1,424,335, which cost will be financed from cash on hand.

After due notice, no protest, petition to intervene or notice of intervention has been filed herein.

At a hearing held on November 23, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Northern Natural Gas Company, a Delaware corporation having its principal place of business in Omaha, Nebraska, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of April 6, 1943, in Docket No. G–280 (3 FPC 967).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding are to be used in the transportation and delivery of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof and the proposed transportation and delivery of natural gas by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities in Phase I and the proposed transportation and delivery of natural gas by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Applicant, Northern Natural Gas Company, to construct and operate the proposed Phase I facilities and to transport and deliver natural gas as hereinbefore described, all as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be constructed and placed in actual operation and the transportation and delivery of natural gas authorized in paragraph (A) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within one year from the date on which this order issues.

(D) The authorization granted herein is without prejudice to any determination which the public convenience and necessity may require with regard to Phase II of this proceeding.

(E) This certificate shall not entitle the industrial customer to whom firm gas is authorized herein to any rights or priorities to additional gas for meeting any future increases in its requirements at the expense of firm resale customers desiring to acquire additional gas to meet any future increases in their requirements.

(F) Applicant shall notify the Commission of the precise contract demand Cleveland-Cliffs will require and the effect of such contract demand on the Phase II facilities. Should the precise contract demand for Cleveland-Cliffs subsequently be determined to be lower than the maximum 30,280 Mcf of gas per day authorized in paragraph (A) above, Applicant shall file a petition to amend the subject order so as to authorize such lower contract demand.

(G) Applicant shall file a service agreement with Iowa Public Service Company reflecting the additional contract demand volumes authorized herein.

(H) Applicant shall file an amendment to its October 20, 1964, contract with Cleveland-Cliffs reflecting the additional volumes authorized herein.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

NORTHERN NATURAL GAS COMPANY, DOCKET NO. CP67–87

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued November 28, 1966)

On September 30, 1966, Northern Natural Gas Company (Applicant), filed in Docket No. CP67–87 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities and the transportation and sale of natural gas in interstate commerce, all as more fully set forth in the application.

Applicant proposes to construct and operate 4.4 miles of 30-inch loop line north of Clifton, Kansas Compressor Station. By means of this new facility Applicant proposes to increase its system capacity by 3,000 Mcf per day to supply contract requirements of its Peoples Division for the heating season beginning October 27, 1966. The additional contract demand is required by Peoples Division to meet for the first time the firm requirements of four existing industrial customers.

These customers have signed precedent service agreements for the volumes shown below:

Company	Contract demand Mcf	Uses
Decorah Creamery Company	250	Heating and Processing.
Waukon Farmer Co-op Creamery	250	Heating and Processing.
International Business Machines	1,000	Heating and Air Conditioning.
The Franklin Station	1,500	Heating and Air Conditioning and Power Generation.

The total estimated cost of the proposed facilities is $480,390 which cost will be financed from cash on hand.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on November 23, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorizations sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, Northern Natural Gas Company, a Delaware corporation having its principal place of business in Omaha, Nebraska, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of April 6, 1943, in Docket No. G-280 (3 FPC 967).

(2) The proposed construction and operation of facilities, and the sale of natural gas in interstate commerce, as hereinbefore described and as more fully described in the application, and exhibits, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed construction and operation of facilities and sale of natural gas are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant authorizing the construction and operation of facilities, and the sale of natural gas in interstate commerce, as hereinbefore described and as more fully described in the application, and exhibits filed in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (f) of Section 157.20 of such Regulations.

(C) The facilities authorized by paragraph (A) above shall be constructed and placed in actual operation as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within 6 months from the date on which this order issues.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

NORTHERN NATURAL GAS COMPANY, DOCKET NO. CP67-107

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND PERMITTING AND APPROVING ABANDONMENT

(Issued November 28, 1966)

On October 20, 1966, Northern Natural Gas Company (Applicant), filed in Docket No. CP67-107 an application pursuant to Section 7(b) and Section 7(c) of the Natural Gas Act for permission and approval to abandon certain natural gas facilities and for a certificate of public convenience and necessity authorizing the construction and operation of other facilities, all as more fully set forth in the application.

Applicant proposes to abandon and remove approximately 1,635 feet of 4-inch line in its Ralston, Nebraska, branchline and to install along a different route as a replacement approximately 2,260 feet of 4-inch line. Such action has been made necessary by the development of a residential subdivision over the present location of the pipeline by the Ponderosa Development Company (Ponderosa).

The total estimated cost of the relocation is $11,017, which cost to Applicant will be reimbursed by Ponderosa.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application, has been filed.

At a hearing held on November 23, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, and exhibits submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Northern Natural Gas Company, a Delaware corporation having its principal place of business in Omaha, Nebraska, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of April 6, 1943, in Docket No. G-280 (3 FPC 967).

(2) The facilities proposed to be abandoned by Applicant, as hereinbefore described and as more fully described in the application, filed in the proceeding are used in the transportation and sale of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and such abandonment is subject to the requirements of Subsection (b) of Section 7 of the Natural Gas Act.

(3) The proposed abandonment of the aforesaid facilities is permitted by the public convenience and necessity and permission and approval therefor should be granted as hereinafter ordered.

(4) The proposed construction and operation of facilities, as hereinbefore described and as more fully described in the application, filed in this proceed-

ing are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(5) The aforesaid proposed construction and operation of facilities, is required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(6) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(7) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

The Commission orders:

(A) Permission for and approval of the abandonment by Applicant of the facilities hereinbefore described, as more fully described in the application in this proceeding, is granted.

(B) A certificate of public convenience and necessity is issued to Applicant in this proceeding, authorizing the construction and operation of facilities, as hereinbefore described, all as more fully described in the application, upon the terms and conditions of this order.

(C) The certificate issued by paragraph (B) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

(D) Applicant shall advise the Commission of the date of abandonment of the facilities as authorized in paragraph (A) above within ten days of such abandonment.

(E) The facilities authorized in paragraph (B) above shall be constructed and placed in actual operation within six months of the date on which this order issues, as provided in paragraph (b) of Section 157.20 of the Regulations.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

PACIFIC GAS AND ELECTRIC COMPANY, PROJECT NO. 233

ORDER APPROVING REVISED PROJECT EXHIBIT K AND ADJUSTING ANNUAL CHARGES

(Issued November 28, 1966)

On March 17, 1965, Pacific Gas and Electric Company, licensee for major Project No. 233, filed an application for Commission approval of a revised Exhibit K map to show the present project boundary associated mainly with the Pit 4 development of the project. Project No. 233 is located on the Pit River in Shasta County, California and affects lands of the United States within the Shasta National Forest.

The application describes the following changes in the project boundary area, as reflected on the revised Exhibit K map: (a) 6.26 acres of licensee-owned land have been added for a section of the road between Pit 5 diversion dam and the

Pit 4 powerhouse; (b) 80.01 acres of lands of the United States have been included in a road between the Pit 4 powerhouse and the Pit 4 tunnel outlet portal, and for a portion of the Pit 4 dam to Pit 4 powerhouse road; (c) 165.04 acres of lands of the United States have been added for the balance of the road between Pit 4 diversion dam and Pit 4 powerhouse; and (d) 1.17 acres of lands of the United States have been deducted from the Pit 4 tunnel area by reason of overlap of the enlarged Pit 4 powerhouse site and because of a slight change made during construction in the alignment of the Pit 4 tunnel.

By letter dated May 11, 1966, from the licensee, and by letter dated September 19, 1966, from the U.S. Forest Service, we are advised that the licensee was permitted to occupy the National Forest lands herein involved under a Forest Service Special Use Permit issued without charge on July 29, 1952 and terminated by the Forest Service on July 12, 1965, in anticipation that the Forest lands would be brought under the license for the project by an appropriate filing by the licensee. Our records show that the permit (a copy of which is on file with the Commission) was issued following the Commission's June 13, 1952 letter advising the licensee that it would interpose no objection to the licensee proceeding with certain preliminary construction work, at the licensee's risk, subject to the requirements of the Government agency having supervision over the Government lands involved.

The principal effect of our approval of the revised Exhibit K map will be to show in the license for the project an increase in National Forest lands occupied by the project of approximately 243.88 acres, with a resultant increase ($585.31) in the amount of annual charges for such occupancy.

The Chief, Forest Service has reported that the Service has reached a mutual agreement with the licensee for the adequate protection and utilization of the Shasta National Forest, and recommended that license Article 19 be revised substantially as hereinafter provided.

The Commission finds:

(1) The revised exhibit, described as Exhibit K, Sheet 2 A: (FPC No. 233-78), conforms to the Commission's rules and regulations and should be approved as part of the license for the project, and license Exhibit K, Sheet 2 A: (FPC No. 233-74), which has been superseded, should be eliminated from the license for the project.

(2) The increased amount of annual charges for recompensing the United States for the occupancy of its lands by the project is reasonable as hereinafter fixed and specified.

The Commission orders:

(A) The revised Exhibit K described in finding (1) above is hereby approved as part of the license for Project No. 233, effective as of July 12, 1965, and the superseded license Exhibit K described in the same finding is hereby eliminated from the license for the project.

(B) Article 19 of the license is hereby revised to read as follows:

> *Article 19.* The Licensee shall, with Commission approval after notice and opportunity for hearing, allow any agency of the United States, without charge, to construct or permit to be constructed on, through, and across the project lands, conduits, chutes, ditches, railroads, roads, trails, telephone and power lines, and other means of transportation and communication not inconsistent with the enjoyment of said lands by the Licensee for the purposes stated in the license. This article shall not be construed

> as conferring upon the Licensee any right of use, occupancy, or enjoyment of the lands of the United States other than for the operation and maintenance of the project as stated in the license. There is reserved to the appropriate department or agency of the United States, or of the State or county involved, the right to take over, maintain, and supervise the use of any project road as a public road.

(C) Subparagraph B of Article 26 of the license is hereby amended, effective as of July 12, 1965, to read as follows:

> B. For the purpose of recompensing the United States for the use, occupancy and enjoyment of its lands, $1,564.99.

(D) This order shall become final 30 days from the date of its issuance unless application for rehearing shall be filed as provided in Section 313(a) of the Act, and failure to file such an application shall constitute acceptance of this order. In acknowledgment of the acceptance of this order, it shall be signed for the licensee and returned to the Commission within 60 days from the date of issuance of this order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

PACIFIC POWER & LIGHT COMPANY, PROJECT NO. 1927

ORDER APPROVING REVISED PROJECT EXHIBIT L DRAWING

(Issued November 28, 1966)

On May 19, 1966, Pacific Power & Light Company, licensee for Project No. 1927, filed for Commission approval a revised Exhibit L drawing for a new diversion dam at the Fish Creek development of Project No. 1927, located on the North Umpqua River and its tributary Fish Creek, in Douglas County, Oregon, and affecting lands of the United States within Umpqua National Forest.

The original diversion dam on Fish Creek was washed out during the December, 1964 flood and a new dam was constructed at a preferable site about 100 yards upstream from the site of the original dam.

The new dam, which was completed in July of 1965, is about 4 feet high, comprised of a concrete slab spillway section about 150 feet long surmounted by flashboards 2½ feet high across the full width of the stream, a fish ladder located at the right end of the spillway and earth fill abutment sections, creating a pond with an area of approximately 4 acres. The cost of the new construction was $34,000. The design of the structure and the spillway capacity are considered satisfactory. The change of the dam site location does not affect the occupancy by the project of lands of the United States insofar as the annual charges for such occupancy are concerned.

The Department of the Interior has advised that fish and wildlife resources and other interests of the Department are not affected adversely by the changes covered in the revised Exhibit L drawing.

The Chief, Forest Service, has recommended Commission approval of the changes shown on the revised Exhibit L drawing.

In view of the changes with respect to the Fish Creek diversion dam, we are by this order modifying subparagraph (a) of Article 2 of the license insofar as it describes the *Fish Creek Development* to reflect the changes.

The Commission finds:

The following described revised Exhibit L drawing conforms to the Commission's rules and regulations and should be approved as part of the license for the project and license Exhibit L drawing (FPC No. 1927–151) which has been superseded should be eliminated from the license for the project:

Exhibit L	FPC number	Title
Sheet No. 3, L–18 (Revised 2-2-66 by licensee).	1927–221	Fish Creek Development Diversion Dam Plan and Sections, Conduit Sections.

The Commission orders:

(A) The revised Exhibit L drawing described in the above finding is hereby approved as part of the license for Project No. 1927, and the superseded license Exhibit L drawing referred to in the same finding is hereby eliminated from the license for the project.

(B) Subparagraph (b) of Article 2 of the license for Project No. 1927, under the title *Fish Creek Development*, is hereby modified to read as follows:

Fish Creek Development

A low diversion dam comprised of a concrete slab spillway section surmounted by 2.5-foot high flashboards and earthfill abutment sections across Fish Creek, creating a pond with an area of approximately 4 acres; a conduit about 25,660 feet long consisting principally of gunite-lined canal and timber flume; an open forebay with capacity of 78 acre-feet; a steel penstock about 1,910 feet long; a powerhouse located on the North Umpqua River between Toketee powerhouse and Slide Creek diversion dam containing a 15,400-horsepower turbine connected to an 11,000-kilowatt outdoor-type generator; an outdoor substation; a 132,000 volt transmission line about 175 feet long connecting the substation with the licensee's Slide Creek-Toketee transmission line: the location, nature and character of which project works are more specifically shown and described by the exhibits hereinbefore cited for the development and by certain other exhibits which formed part of the application for amendment or approval of revised project exhibit and which are designated and described as follows:

Exhibit L-18: (FPC No. 1927–136) Forebay Plan and Sections; (FPC No. 1927–137) Penstock Plan and Profile; (FPC No. 1927–221) Diversion Dam Plan and Sections, Conduit Sections; (FPC No. 1927–139) Powerhouse Plan and Sections; and

Exhibit M-11: Two typewritten pages, Revised General Description and Specifications of Equipment, including a circuit diagram, filed in the Commission February 24, 1953.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

TEXAS GAS TRANSMISSION CORPORATION, DOCKET NO. CP66-149 (PHASE II)

FURTHER FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued November 28, 1966)

On November 10, 1965, Texas Gas Transmission Corporation (Applicant) filed in Docket No. CP66-149 an application pursuant to Sections 7(b) and 7(c) of the Natural Gas Act for permission and approval to abandon certain natural gas facilities and for a certificate of public convenience and necessity authorizing the construction and operation of certain other facilities together with increase in Contract Demand Service to existing customers for the 1966-67 and 1967-68 winter heating seasons, all as more fully set forth in the application.

The Commission, in its order issued April 12, 1966, 35 FPC 493, as amended July 12, 1966, 36 FPC 55, authorized during 1966: (1) the construction and operation of approximately 146.17 miles of pipeline varying in diameter from 4 to 36 inches, including river crossings on the Cumberland River in Kentucky, and Ohio River in Indiana; (2) installation of 30,530 additional horsepower of compression; (3) development of the Hanson Storage Field; (4) activation of the White River Storage Field; (5) the abandonment of 34.65 miles of pipeline; and (6) an increase of 85,888 Mcf/d in the contract demands of existing Texas Gas customers.

All of the above facilities and service constitute Phase I in the instant docket and were so designated in the Commission's April 12, 1966 order. The remaining proposed facilities and service were designated as Phase II and consideration thereof deferred to a future date.

Subsequent to the Commission's order issued April 12, 1966, authorizing Phase I of the instant docket, a petition to intervene filed by Tennessee Gas Transmission Corporation (Tennessee) regarding Phase II and the additional sale of 35,000 Mcf/d to Louisville Gas and Electric Company was withdrawn by Tennessee.

The Phase II facilities and service for which authorization was deferred and for which authorization is being granted herein consist of (1) 46.09 miles of 8 to 36-inch pipeline (including a river crossing) in Louisiana, Tennessee, and Kentucky, (2) the installation of 2,000 additional horsepower of compression at Applicant's Slaughters, Kentucky, Compressor Station, (3) increasing the maximum deliverability of the Hanson, Kentucky, Storage Field from 50,000 Mcf/d to 70,000 Mcf/d, and (4) increasing the contract demands of 50 existing customers by 61,040 Mcf/d for the 1967-68 winter heating season. The facilities involved in Phase II are proposed for construction and operation during 1967.

The estimated cost of the proposed Phase II construction is $7,638,285, which will be financed by long-term debt securities and by cash generated from operations.

No other petition to intervene in opposition to Applicant's proposals or notice of intervention or protest to the granting of the application, or to the amendments filed on February 14, 1966 (notice published March 4, 1966; 31 F.R. 3434), April 13, 1966 (notice published April 30, 1966; 31 F.R. 6554), July 28, 1966, and September 26, 1966 (notice published October 13, 1966; 31 F.R. 13255), have been filed.

At a hearing held on November 23, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, supplement and amendments thereto, and upon consideration of the record,

The Commission finds:

(1) Applicant, Texas Gas Transmission Corporation, a Delaware corporation having its principal place of business in Owensboro, Kentucky, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of March 30, 1948, in Docket No. G–855 (7 FPC 213).

(2) The proposed construction and operation of facilities, and the transportation and sale of natural gas in interstate commerce, as hereinbefore described as Phase II and as more fully described in the application filed in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed construction and operation of facilities, and the transportation and sale of natural gas in interstate commerce, are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, Texas Gas Transmission Corporation, authorizing the construction and operation of the Phase II facilities, and the sale and transportation of natural gas as hereinbefore described, all as more fully described in the application, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

(C) The facilities authorized in Phase II shall be constructed and placed in actual operation, and the transportation of gas authorized in paragraph (A) above shall commence as provided in paragraph (b) of Section 157.20 of the aforesaid Regulations within 12 months of the date on which this order issues.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

THE DETROIT EDISON COMPANY, DOCKET NO. E–7318

ORDER AUTHORIZING THE ISSUANCE OF FIRST MORTGAGE BONDS

(Issued November 29, 1966)

The Detroit Edison Company filed an application with the Federal Power Commission on October 31, 1966, seeking an order, pursuant to Section 204 of the Federal Power Act, authorizing the issuance of $100,000,000 principal amount of General and Refunding Mortgage Bonds, Series R, —% due 1996.

Applicant is incorporated under the laws of the State of New York with its principal place of business in Detroit, Michigan, and is qualified to do business in the State of Michigan. Applicant is engaged primarily in the generation, purchase, transmission, distribution and sale of electricity in a service area of approximately 7,600 square miles in southeastern Michigan.

The $100,000,000 General and Refunding Bonds are to be dated December 1, 1966, and are to mature on December 1, 1996. The interest rate will be determined by the most favorable bid received and accepted pursuant to the Commission's Regulations under the Federal Power Act.

The new Bonds are to be issued under and secured by a Mortgage and Deed of Trust dated as of October 1, 1924, between the Applicant and Bankers Trust Company, New York, as Trustee, as amended and supplemented by various supplemental indentures and to be further amended and supplemented by a supplemental indenture to be dated as of December 1, 1966, creating the new Bonds. The new Bonds will be a first lien on substantially all of the Applicant's tangible properties and franchises.

The Applicant intends on or about December 1, 1966, to invite sealed, written proposals for the purchase from it of the $100,000,000 new Bonds. The Public Invitation for Proposals contains the following principal provisions:

Each bid, which may be made by a single bidder or by a group of bidders, must be for the purchase of all the bonds. No bidder may submit or participate in more than one bid. Each bid must be presented to the Applicant at the offices of Bankers Trust Company, Conference Room A, 11th Floor, 100 Broadway, New York, N.Y., before 11:00 A.M., New York City Time, on December 8, 1966, and be accompanied by a deposit of $5,000,000.

Each bid shall specify the interest rate to be borne by the bonds, which rate shall be a multiple of ⅛ of 1%; and shall also specify the price to be paid to the Applicant for the Bonds, which price shall not be less than 99% of principal amount. Each bid shall provide that the purchaser or purchasers of the Bonds shall pay to the Applicant accrued interest on the Bonds from December 1, 1966 to the date of payment therefor and delivery thereof.

Unless the Applicant shall reject all bids or exclude a bid or bids for reasons set forth in the Public Invitation for Proposals, it will accept the bid which provides for the lowest annual cost of money.

The net proceeds from the sale of the new Bonds will be used first, to provide for a refunding of short-term bank loans incurred and to be incurred prior to issuance of the new Bonds chiefly for construction purposes, which notes totaled $30,000,000 as of September 30, 1966, and are expected to total $40,000,000 as of the end of November, 1966, and second, to provide for further financing for permanent improvement.

During 1966 and 1967 the Company's construction and capital expansion program contemplates the expenditure of approximately $90,400,000 on a new steam-electric generating unit with an estimated capability of 519,000 kilowatts scheduled for service in late 1967 at the Trenton Channel power plant and a 527,000 kilowatt generating unit scheduled for service in December, 1968, at the St. Clair power plant. In addition, the Company expects to spend $16,700,000 on a new 120,000 kilowatt plant scheduled for service in 1968 at Harbor Beach, Michigan; to incur initial expenditures of $4,000,000 in connection with the construction of a 750,000 kilowatt steam-electric generating plant near Monroe, Michigan; and an additional $17,000,000 for oil-fueled combustion turbine-generator peaking units; some of which are presently in service with the remainder scheduled through the early months of 1967. The balance of expenditures in 1966 and 1967 are expected to include $44,700,000 for the construction of transmission and distribution lines; $24,300,000 for the construction of transmission and distribution stations and substations; $44,000,000 on new business extensions and $69,600,000 on other property and equipment.

Written notice of the application has been given to the Michigan Public Service Commission and the Governor of that State. Notice has also been published in the Federal Register on November 11, 1966 (31 F.R. 14528), stating that any person desiring to be heard or to make any protest with reference to the application shall file petitions or protests on or before November 22, 1966, with the Federal Power Commission, Washington, D.C. 20426. No protest, petition or request to be heard in opposition to the granting of the application has been received.

The Commission finds:

(1) The Applicant owns and operates facilities which may be facilities for the transmission of electric energy in interstate commerce and it may be a public utility within the meaning of that term as used in Section 204 of the Federal Power Act.

(2) The proposed issuance and sale of Bonds, as described above, will constitute an issuance of securities within the purview of Section 204 of the Federal Power Act.

(3) Applicant is not organized and operating in a State under the laws of which the security issue here involved is regulated by a State commission within the meaning of Section 204(f) of the Act, and the proposed issuance of securities is, therefore, not exempt by virtue of that Section from the requirements of Section 204 of the Act.

(4) The proposed issuance and sale of Bonds, as hereinafter authorized, will be for a lawful object, within the corporate purposes of the Applicant and compatible with the public interest, which is appropriate for and consistent with the proper performance by Applicant of service as a public utility and which will not impair its ability to perform that service, and is reasonably appropriate for such purposes.

(5) The period of public notice given in this matter is reasonable.

The Commission orders:

(A) The proposed issuance and sale of Bonds, upon the terms and conditions and for the purposes specified in the application, as described above, are authorized, subject to the provisions of this order.

(B) The proposed issuance and sale of Bonds at competitive bidding shall not be consummated until:

(i) Applicant shall have amended its application pursuant to the requirements of Section 34.2(g) of the Commission's Regulations under the Federal Power Act relating to compliance with competitive bidding requirements, and Section 34.2(h)(1) of those Regulations relating to affiliation, and shall have either filed such amendments or shall have mailed them and advised the Commission by telephone and telegraph, as contemplated in Section 34.9 of the Regulations.

(ii) The Commission, by further order, shall have approved the price to be received by Applicant for the proposed issuance of Bonds and the interest rate thereof.

(C) This authorization shall expire unless the transaction hereby authorized is consummated within 90 days from the date of issuance of this order.

(D) The foregoing authorization is without prejudice to the authority of this Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates or determinations of cost, or any other matter whatsoever now pending or which may come before this Commission.

(E) Nothing in this order shall be construed to imply any guarantee or obligation on the part of the United States in respect to any security to which this order relates.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

FLORIDA GAS TRANSMISSION COMPANY, DOCKET NO. CP67-94

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued November 29, 1966)

On October 13, 1966, Florida Gas Transmission Company (Applicant) filed in Docket No. CP67-94 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain lateral facilities in order to purchase natural gas from Gulf Oil Corporation (Gulf), all as more fully set forth in the application.

Specifically, Applicant seeks authorization to construct and operate approximately 18 miles of 12-inch lateral supply pipeline and appurtenances extending in a generally northwesterly direction from a point of connection with an existing delivery point in Corpus Christi Bay to a point on Applicant's mainline in San Patricio County, Texas, downstream of Compressor Station No. 2 and east of Nueces River. By means of these facilities Applicant proposes to purchase from Gulf, transport and take into its main pipeline system a daily quantity of approximately 31,000 Mcf of natural gas.

The estimated total cost of the proposed facilities is $1,225,000 which will be paid out of cash on hand.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on November 23, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization, and upon consideration of the record,

The Commission finds:

(1) Applicant, Florida Gas Transmission Company, a Delaware corporation having its principal place of business in Winter Park, Florida, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order issued July 3, 1963, in Docket No. CP63-277 (30 FPC 27).

(2) The proposed construction and operation of facilities and transportation of natural gas, hereinbefore described and as more fully described in the application and exhibits in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed construction and operation of facilities and transportation of natural gas are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all other applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to the Applicant in this proceeding, authorizing the construction and operation of facilities and the transportation of natural gas per day as hereinbefore described and as more fully described in the application in this proceeding, subject to the jurisdiction of the Commission, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be completed as authorized in paragraph (A) above as provided for in paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within one year from the date on which this order issues.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

NEW ENGLAND POWER COMPANY, PROJECT NO. 1904

ORDER AUTHORIZING SALE OF PROJECT LAND

(Issued November 30, 1966)

New England Power Company, licensee for constructed Vernon Project No. 1904, filed an application on July 28, 1966, and supplements thereto on August 12 and October 6, 1966, requesting Commission approval of a proposed conveyance to the Town of Brattleboro, Vermont, of a ten-acre parcel of project land situated on the western shore of the Connecticut River in the Town of Brattleboro.

According to the application, the licensee proposes to transfer the subject parcel of land to the Town of Brattleboro. Thereafter the Town would transfer the property to the A.P.W. Products Company, Inc. The proposed use of the land is for expansion of A.P.W. paper mill operations, presently conducted on land adjacent to the subject parcel. The ten-acre parcel is located approximately five miles upstream from the Vernon Dam.

The licensee has not submitted a recreational use plan, it not being specifically required by the order issuing the license for the Vernon Project, August 1, 1944 (4 FPC 670). That order provides in part, at p. 672, "* * * The operation by the licensee * * * of the project works * * * shall at all times be controlled by such reasonable rules and regulations * * * as the Commission may prescribe for the protection of life, health, and property and in the interest of the fullest practicable conservation and utilization of such waters * * * for * * * beneficial public uses, including recreational purposes * * *."

The licensee has submitted to this Commission a brochure setting forth in general terms the present development and use of a number of the licensee's hydroelectric developments in the stretch of the Connecticut River which includes Project 1904. Specific recreational facilities are not now included at Project 1904. And information set forth in the application does not cover all possible uses of the subject parcel as they may relate to the comprehensive use for the improvement and development of the Connecticut River. In this respect the application is limited to statements that the subject parcel will be used for industrial operations with waste treatment facilities and will be subject to State regulatory authority. Licensee requests an exemption of the proposed conveyance from the requirements of Commission Order No. 313, issued December 27, 1965, 34 FPC 1546, paragraph (c).*

Licensee indicates that in its opinion the structures and manufacturing processes to be employed on the subject parcel of project land will not affect adversely any recreational development. But without the covenant provided for in our Order No. 313 there is no assurance that a future owner of the land would use it in a manner which would be compatible with overall recreational use of project lands and reservoirs.

In our order authorizing issuance of the license for Project No. 1904, the Commission found, among other things, (4 FPC 671), that: "Under present circumstances and conditions, and upon the terms hereinafter imposed, the project is best adapted to a comprehensive plan for improving and developing the Connecticut River for the use and benefit of interstate commerce, for the improvement and utilization of water power development, and for other beneficial public uses, including recreational purposes;". Article 21 of the license for the project, which was issued jointly to Connecticut River Power Company and New England Power Company, (later transferred to New England Power Company (14 FPC 504)) provides, among other things, that "each Licensee, its successors and assigns will, during the period of this license, retain the possession of all project property covered by this license * * * including the project area * * * and that none of such properties necessary or useful to the project * * * will be voluntary sold * * * without the approval of the Commission."

The Commission finds:

It is necessary and appropriate for the purposes of the Federal Power Act to authorize the licensee to convey the subject parcel of project lands upon the terms and conditions as hereinafter provided.

The Commission orders:

(A) New England Power Company is hereby authorized to effect the conveyance of the parcel of Project No. 1904 land herein involved, subject to the retention in any such conveyance of flowage rights necessary in the construction, operation and maintenance of Project No. 1904.

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*Paragraph (c) states in part as follows:

"The Commission will not grant any authorization for a licensee to dispose of any interest in project lands, unless a showing is made that such disposal is not inconsistent with any approved recreational plan or in the absence of such a plan, that the lands do not have recreational value. * * * The licensee, in the absence of specific Commission exemption from these requirements, shall include in the instrument of conveyance a covenant running with the land adequate to insure that, unless the Commission subsequently authorizes a different use as consistent with a comprehensive plan for improving or developing the waterway, the use of the lands conveyed will not endanger health, create a nuisance, or otherwise be incompatible with over-all project recreational use."

(B) Our approval of the conveyance of the subject parcel of project land is subject to the further condition that the licensee incorporate in any instrument of conveyance of such land a covenant ensuring that the use of such land will not endanger health, create a nuisance, or otherwise be incompatible with overall project recreational use in accordance with paragraph (C) of the Commission's Order No. 313, issued December 27, 1965 (18 CFR 2.7(c)).

(C) The licensee shall file copies of the instrument of conveyance with the Commission within 30 days of the date of its execution.

(D) The licensee shall, within 6 months from the date of issuance of this order, file a revised Exhibit F to show the present ownership of project lands.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

NORTHERN NATURAL GAS PIPELINE COMPANY, ET AL., DOCKET NO. CP66-307, ET AL.

ORDER DENYING MOTION TO HOLD PROCEEDINGS IN ABEYANCE

(Issued November 30, 1966)

On November 4, 1966, Texaco Inc. filed a motion pursuant to Section 1.12 and Section 1.13(e) of the Rules of Practice and Procedure requesting the Commission to hold the above proceedings in abeyance until a final determination has been made in the presently pending state court action in *Brooks Gas Corporation* v. *Sinclair Oil & Gas Company*, District Court of Harris County, Texas.

In that proceeding, the plaintiff applied for a temporary injunction against Sinclair Oil & Gas Company (Sinclair) and Skelly Oil Company (Skelly) on the ground of breach of an alleged agreement that their gas gathering system would not be extended into the Eldorado-Canyon Field. It is not necessary for our purpose to relate the details of the agreement. Suffice it to say that the Presiding Judge found that such agreement was in restraint of trade. The Texas Court of Civil Appeals affirmed the denial of the injunction by the lower court.

We believe that the motion should be dismissed since, it presupposes that the validity of Skelly and Sinclair's contracts, as such, to sell gas to Northern Natural Gas Company is at issue in the State Court proceeding. This is in error. While it is true that the Commission will defer such questions as to whether or not there is a contract, as such, under applicable state law, the issue in the Texas case is whether Skelly has agreed not to compete. The contract between Sinclair and Northern which forms the basis for the certificate application is not under attack nor is there any question of interpretation of that contract subject to determination under state law. The alleged potential conflict with Federal jurisdiction is too tenuous and remote to warrant our holding these applications in abeyance.

The Commission orders:

For the above reasons the motion of Texaco Inc. to hold the above-designated proceedings in abeyance is hereby dismissed.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

AREA RATE PROCEEDING, ET AL. (PERMIAN BASIN AREA), DOCKET NO. AR61-1, ET AL.

ORDER ACCEPTING QUALITY STATEMENTS

(Issued December 1, 1966)

The producers listed in the Appendix have submitted quality statements in response to Opinion Nos. 468 and 468-A, 34 FPC 159, 1068, or related orders issued subsequent thereto.

Sixteen of these quality statements, which relate to sales to El Paso Natural Gas Company (El Paso) and West Texas Gathering Company (West Texas), were filed late. The agreed upon treating charges for non-pipeline quality gas are based on costing methods utilized by El Paso and approved by the Commission in declaratory orders issued June 13 and 27, 1966, 35 FPC 960, 1083.

Seven quality statements have been revised to eliminate proposed upward adjustments for gas delivered in excess of 500 psig and for Btu content between 1000 and 1050 which were used initially as credits to treating cost deductions.

Seven quality statements submitted by Shell Oil Company (Shell) reflect for the first time agreement with El Paso. They disagreed initially as to whether certain sales were "new" or "old" gas sales and as to the proper method of determining New Mexico's "ad valorem" tax.

One quality statement involves sales to El Paso and Pecos Company at the Wilshire Plant in Upton County, Texas. The same cost adjustments approved in the Commission's order issued October 19, 1966, for other producer sales at the Wilshire Plant were utilized in the subject quality statement to the extent applicable.

The final quality statement relates to a sale by Humble Oil & Refining Company to The Nueces Company (Nueces). Nueces resells this gas to El Paso. The quality statement has been revised to reflect a deduction for compression. No deduction for compression was proposed in the initial quality statement.

The quality statements tendered herein conform with the requirements of Opinion Nos. 468 and 468-A and we shall therefore accept them.

The Commission orders:

The quality statements listed in the Appendix are accepted.

APPENDIX

Producer	Rate schedule No.	Supplement No.	Filing date
Acoma Oil Corporation	*5	8	10-20-66
	10	9	8-22-66
Gulf Oil Corporation	312	3	8-12-66
	[2] 326	1 to 7	8-25-66
	[2] 345	1 to 3	8-25-66
	[2] 367	1 to 1	8-25-66
Humble Oil & Refining Company	369	3	8-17-66
Kirby Petroleum Company	*20	7	6-27-66
MWJ Producing Company	**1	8	7- 8-66
	**2	4	7- 8-66
	**4	3	7- 8-66
	**5	8	7- 8-66
	7	2	8- 1-66
Martin, Williams and Judson	*1	5	7- 8-66
	***2	4	7- 8-66
Pan American Petroleum Corporation	*136	23	7-25-66
Petroleum Corporation of Texas	*22	10	9-12-66
	*23	6	9-12-66
Phillips Petroleum Company	****9	1 to 18	7-11-66
Shell Oil Company	16	10	7-27-66
	33	13	7-27-66
	34	14	7-27-66
	40	9	7-27-66
	41	21	7-27-66
	95	9	7-27-66
	108	8	7-25-66
	253	5	7-20-66
	319	3	8-15-66
Skelly Oil Company	203	2	8-10-66
The Superior Oil Company	116	2	7-18-66
Texaco Inc	246	4	7-15-66
Union Oil Company of California	[1] 98	14	8-24-66

*(Operator), *et al.*
**(Operator), Agent.
***_Et al._
****Operator.

[1] Quality statement for sale from the Jack Herbert Field. Includes quality statement covering Pecos Company's 50% interest as successor to Hunt Oil Company, co-purchaser with El Paso Natural Gas Company.

[2] Tentative designation. Formerly British-American Oil Producing Company FPC Gas Rate Schedule Nos. 6, 39, and 65, respectively.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

FOSTER PETROLEUM CORPORATION; GRAHAM-MICHAELIS DRILLING COMPANY (OPERATOR), ET AL., DOCKET NOS. RI65-427 AND RI65-428; WILLIAM GRAHAM OIL COMPANY (OPERATOR), ET AL., RI65-422 AND RI65-430

ORDER ACCEPTING NOTICES OF CHANGE IN RATE, REQUIRING REFUNDS, AND TERMINATING PROCEEDINGS

(Issued December 1, 1966)

The above-named parties have filed notices of change in rate relating to sales of natural gas to Cities Service Gas Company (Cities) in the Kansas Hugoton Field.[1] These sales are made pursuant to the terms and conditions of Pan American Petroleum Corporation's (Pan American) FPC Gas Rate Schedule

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[1] Foster Petroleum Corporation, FPC Gas Rate Schedule No. 4, Supplement Nos. 2 and 3. Graham-Michaelis Drilling Company (Operator), *et al.*, FPC Gas Rate Schedule No. 1, Supplement Nos. 5 and 6; FPC Gas Rate Schedule No. 11, Supplement Nos. 13 and 14; Rate Schedule No. 19, Supplement Nos. 4 and 5; Rate Schedule No. 38, Supplement Nos. 4 and 5; and William Graham Oil Company (Operator), *et al.*, FPC Gas Rate Schedule No. 4, Supplement Nos. 5 and 6, and Rate Schedule No. 5, Supplement Nos. 7 and 8.

No. 84 because each of the parties have executed contracts with Cities adopting such terms and conditions.

On April 13, 1966, we issued an order in *Pan American Petroleum Corporation*, Docket No. G–9279, *et al.*, 35 FPC 502, approving a company-wide settlement proposal filed by Pan American, which, *inter alia*, included a settlement rate of 12.5¢ per Mcf of natural gas at 14.65 psia for the sale by Pan American under its FPC Gas Rate Schedule No. 84. Pan American also proposed to amend its contract with Cities to eliminate the price redetermination provision therefrom for twenty-five years and to provide for a definite price escalation of 1.0¢ per Mcf every five years commencing June 23, 1971.

Each of the parties here seeks the same settlement terms as we approved for Pan American's sale to Cities. Each has filed for a 12.5¢ rate and has tendered an executed amendatory agreement which conforms its contract to the provisions of the Pan American settlement.

Graham-Michaelis Drilling Company (Graham) filed for, and has been charging and collecting from Cities a rate of 14.5¢ per Mcf of natural gas at 14.65 psia, subject to refund, in Docket Nos. RI65–427 and RI65–428. It proposes to refund such monies above the settlement rate, with applicable interest, to Cities. Such refunds will approximate $4,500, exclusive of interest.

William Graham Oil Company (Operator), *et al.* (William-Graham) has been charging and collecting from Cities a rate of 14.5¢ per Mcf of natural gas at 14.65 psia, subject to refund, in Docket Nos. RI65–430 and RI65–442. It proposes to refund such monies above the settlement rate, with applicable interest. Such refunds will approximate $1,200.

For the reasons set forth in an order issued October 31, 1966, 36 FPC 800, in *Northern Pump Company (Operator), et al.*, Docket No. RI63–9, *et al.*, we think it appropriate to accept the notices of change filed herein. Our action should not be construed as constituting approval of any future rate increases, if any, that may be filed under the subject rate schedules in accordance with any reservation contained therein of the right to file increases under the subject rate schedules, and is without prejudice to any findings or orders of the Commission in any future rate proceedings, including area rate proceedings, or similar proceedings, involving each of the parties' rates and rate schedules.

The Commission orders:

(A) The notices of change in rate and contract amendments filed by the above-named parties to 12.5¢ per Mcf of natural gas at 14.65 psia for the subject sales to Cities are accepted and made effective as of November 20, 1966, as to Foster Petroleum Corporation, and November 21, 1966, as to the other parties named above.

(B) Graham and William-Graham (Respondents) shall compute the difference between the rates collected subject to refund and the settlement rate of 12.5¢ per Mcf of natural gas at 14.65 psia with applicable interest to the date of this order, and shall within 45 days from the date of issuance of this order submit a report to the Commission, with a copy to Cities, setting out the amount of refunds (showing separately the principal and applicable interest) the bases used for such determination, the period covered, and ten days thereafter each shall submit to the Commission a copy of a letter from Cities agreeing to the correctness of such amounts.

(C) Respondents shall retain the amounts shown in the report required under paragraph (B) above, subject to further action of the Commission directing the disposition of these amounts.

(D) Each Respondent may deposit the retained refunds in a special escrow account, and shall tender for filing within 60 days of the date of issuance of this order an executed Escrow Agreement, conditioned as set out below, accompanied by a certificate showing service of a copy thereof upon Cities.

Unless notified to the contrary by the Secretary within 30 days from the date of filing thereof, each escrow agreement shall be deemed to be satisfactory and to have been accepted for filing. The escrow agreement shall be entered into between each Respondent and any bank or trust company used as a depository of funds of the United States Government and the agreement shall be conditioned as follows:

(1) Each Respondent, the bank or trust company, and the successors and assigns of each, shall be held and formally bound unto the Federal Power Commission for the use and benefit of those entitled thereto, with respect to all amounts and the interest thereon deposited in the special escrow account, subject to such agreement, and such bank or trust company shall be bound to pay over to such person or persons as may be identified and designated by final action of the Commission and in such manner as may be therein specified, all or any portion of such deposits and the interest thereon.

(2) The bank or trust company may invest and reinvest such deposits in any short-term indebtedness of the United States or any agency thereof, or in any form of obligation guaranteed by the United States which is, respectively, payable within 120 days as the said bank or trust company in the exercise of its sound discretion may select.

(3) Such bank or trust company shall be liable only for such interest as the invested funds described in Paragraph (2) above will earn and no other interest may be collected from it.

(4) Such bank or trust company shall be entitled to such compensation as is fair, reasonable and customary for its services as such, which compensation shall be paid out of the escrow account to such bank or trust company. Said bank or trust company shall likewise be entitled to reimbursement for its reasonable expenses necessarily incurred in the administration of this escrow account, which reimbursement shall be paid out of the escrow account.

(5) Such bank or trust company shall report to the Secretary quarterly, certifying the amount deposited in the bank or trust company for the quarterly period.

(E) If any Respondent elects to commingle the retained refunds with its general assets and use them for business purposes, it shall notify the Secretary of the Commission of its intention so to do within sixty days of the issuance of this order, and shall pay interest on such monies at the rate of 6% per annum from the date of issuance of this order to the date on which they are paid over to the person or persons ultimately determined to be entitled thereto by final action of the Commission.

(F) Upon notification by the Secretary of the Commission that a Respondent has complied with the terms and conditions of this order, the proceedings involved herein shall terminate all without further order of the Commission.

(G) The acceptance by the Commission of Respondents' offers of settlement, is without prejudice to any findings or determinations that may be made in any proceeding now pending, or hereafter instituted by or against each Respondent and is without prejudice to claims or contentions which may be made by each Respondent, the Commission staff, or any affected party hereto, in any proceedings.

Commissioner Ross *dissenting* for the reasons set forth in his dissenting statement accompanying the order issued October 31, 1966, in Northern Pump Company (Operator), *et al.*, Docket No. RI63-9, *et al.*, 36 FPC at p. 803.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

ILLINOIS POWER COMPANY, DOCKET NO. E-7245

ORDER ACCEPTING RATE SCHEDULE FILINGS EFFECTING RATE REDUCTIONS AND TERMINATING PROCEEDING

(Issued December 1, 1966)

This order accepts a settlement proposal of Illinois Power Company (Illinois Power) whereby the Company would reduce its wholesale electric rates and charges to Cedar Point Light and Water Company (Cedar Point) and the Villages of Ladd, Ogden and Oglesby, Illinois, by approximately $43,400 annually (based upon its 1965 operations) commencing with billings made on and after December 1, 1966. In addition to accepting for filing Illinois Power's accompanying rate schedules proffered for service to the four above-named customers and designated as set forth in the Appendix hereto, the order terminates the above-entitled proceeding, as requested. The subject rate reductions followed the initiation by this Commission of a formal rate investigation concerning the lawfulness of Illinois Power's rates and charges. See Commission orders issued herein September 16, 1965, 34 FPC 860, and August 8, 1966, 36 FPC 385.

The proffered rate schedule filings, which were submitted on October 24, 1966 would result in annual revenue reductions ranging from 11.8% to 20.5%, all as delineated in the tabulation below:

	1965 revenues	Revenues under proposed rates	Annual reduction	
			Amount	Percent
Ladd	$33,537	$27,744	$5,793	17.3
Ogden	21,883	18,381	3,502	16.0
Oglesby	159,298	126,676	32,622	20.5
Cedar Point	12,178	10,735	1,443	11.8
Total	226,896	183,536	43,360	19.1

The proffered rate schedules provide for a monthly two-part rate. The demand component is $2.00 per kva for the first 110 kva and $1.61 per kva for all additional kva. The energy component amounts to 9 mills per kwh for the first 50,000 kwh and 6.5 mills per kwh for all additional kwh. No changes are prescribed for the existing fuel adjustment clause, which averaged 0.3 mills per kwh during the calendar year 1965. The minimum monthly charge is the demand charge for demand established during the month or 110 kva, whichever is greater.

Illinois Power is engaged in the generation, transmission, and distribution of electrical energy in Illinois, and provides electric service in 49 counties of the State. Cedar Point, Ladd, Ogden, and Oglesby purchase all of their electric requirements from the Company.

The Commission's order of September 16, 1965, directed an investigation and hearing as to the lawfulness of Illinois Power's wholesale rates and charges to the Villages of Fithian, Ladd, Ogden, Oglesby and Sawyerville, Illinois; Cedar Point; and Central Illinois Electric & Gas Company (CIE&G). That order was amended by Commission order issued August 8, 1966, to exclude the lawfulness of the Company's rates and charges to Sawyerville from the scope of the hearing ordered therein[1], require Illinois Power to furnish cost and revenue data using 1965 rather than 1964 as the test year, and directed that a prehearing conference be held on October 4, 1966[2].

The subject settlement proposal results from conferences between Illinois Power representatives and the Commission staff during which the Company submitted a cost of service study reflecting costs for the test year 1965 and the staff proposed various adjustments thereto.

We believe that the subject rate schedules should be accepted for filing and this proceeding terminated. These schedules would result in eliminating more than $43,000 in annual charges to the four wholesale customers based on Company operations during the test year 1965 and an estimated $46,800 for the twelve months ending September 30, 1967. In accepting these rate schedules for filing, we note the immediate rate relief to the wholesale customers concerned. In doing so we do not determine the fair rate of return for the Company's wholesale business, nor do we determine the basis for resolving other cost of service items as would be done if this case were fully tried and decided on the merits on all issues. Inasmuch as our rate making authority is a continuing process, our disposition of this proceeding in the manner indicated above in no way limits our ability to re-examine Illinois Power's wholesale rates and charges at any time thereafter.

By order issued August 8, 1966, we included within the scope of this proceeding the issue of the lawfulness of Illinois Power's Rate Schedule FPC No. 34[3], which provides for an interchange arrangement among Illinois Power, CIE&G, and Commonwealth Edison Company (Commonwealth Edison). This schedule embodies an interchange arrangement similar to other interchange agreements of Illinois Power, and energy flows under the terms of the agreement are expected to reduce losses in the Illinois Power and Commonwealth Edison systems. It provides for an exchange of energy among the three systems to supply the loads of CIE&G's Homer and Bement Districts and does not involve the receipt of monetary compensation by any party to the agreement. Nothing raised in this investigation shows the need for further consideration of this schedule at this time, and we therefore terminate this proceeding with respect to Illinois Power's Rate Schedule FPC No. 34.

Illinois Power's settlement proposal does not include a rate for service to the Village of Fithian. Illinois Power's acquisition and merger of Fithian's system was approved by Commission order issued October 13, 1966, 36 FPC 743, *Illinois Power Company*, Docket No. E-7302. Illinois Power's Rate Schedule FPC No. 25 as supplemented for service to Fithian is subject to cancellation pursuant to notice of cancellation as provided in Section 35.15 of the Commission's Regulations[4] under the Federal Power Act.

The Commission finds:

It is necessary and appropriate for the purposes of the Federal Power Act that Illinois Power's rate schedule filings as referred to above and designated in the Appendix hereto, be accepted for filing and allowed to take effect as filed rate schedules applicable to service for which billings are rendered on and after December 1, 1966, and that the above-entitled proceeding be terminated in the manner hereinafter ordered.

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[1] By order issued July 15, 1966, *Illinois Power Company*, Docket No. E-7282, 36 FPC 59, the Commission approved the Company's acquisition and merger of the electric system of Sawyerville.

[2] Because of settlement negotiations between the Commission staff and Illinois Power, the Presiding Examiner postponed the prehearing conference until November 1, 1966. Subsequently by Secretary's Notice of Continuance dated October 28, 1966, the prehearing conference was further postponed to December 15, 1966, or such later date as may be fixed by the Presiding Examiner.

[3] Superseded Rate Schedule FPC No. 31 for direct sale of energy to CIE&G by Illinois Power. This schedule is also designated as CIE&G's Rate Schedule FPC No. 2 and Commonwealth Edison's Rate Schedule No. 8.

[4] On November 7, 1966, Illinois Power filed its Notice of Cancellation. That notice was accepted for filing effective December 8, 1966.

The Commission orders:

(A) Illinois Power's rate schedules as referred to above and designated in the Appendix hereto are hereby accepted for filing and allowed to take effect as filed rate schedules applicable to service for which billings are rendered on and after December 1, 1966.

(B) Acceptance of Illinois Power's rate schedules as herein provided is without prejudice to any findings or orders which have been or may hereafter be made by this Commission in any proceeding by or against Illinois Power. Moreover, nothing in this order shall be construed as constituting approval by this Commission of any service, rate, charge, classification, or any rule, regulation, contract, or practice affecting such service or rate provided for in the rate schedules referred to above and designated in the Appendix hereto; nor shall this order be deemed as recognizing any claimed contractual right or obligation affecting or relating to such service or rates.

(C) The above-entitled proceeding, Docket No. E–7245, is hereby terminated.

APPENDIX

Illinois Power Company

Rate Schedule Designations

(Filed: 10/24/66, effective: 12/1/66)

Designation	*Other party*
(1) Supplement No. 2 to Rate Schedule FPC No. 26 (Supersedes Supp. No. 1 to FPC No. 26).	Village of Ladd, Illinois.
(2) Supplement No. 2 to Rate Schedule FPC No. 27 (Supersedes Supp. No. 1 to FPC No. 27).	Village of Ogden, Illinois.
(3) Supplement No. 2 to Rate Schedule FPC No. 28 (Supersedes Supp. No. 1 to FPC No. 28).	Village of Oglesby, Illinois.
(4) Supplement No. 2 to Rate Schedule FPC No. 30 (Supersedes Supp. No. 1 to FPC No. 30).	Cedar Point Light and Water Company, Cedar Point, Illinois.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

NEW ENGLAND POWER COMPANY, PROJECT NO. 1904

ORDER APPROVING AMENDMENT OF PROJECT EXHIBIT K DRAWINGS AND AUTHORIZING EASEMENT IN PROJECT LANDS

(Issued December 1, 1966)

New England Power Company (NEPCO), licensee for constructed Vernon Project No. 1904, filed an application on October 6, 1966 and amendments thereto on October 27 and November 9, 1966, requesting (1) Commission approval of amended Exhibit K drawings covering Project No. 1904 to delete from the area within the project boundary a strip of land 0 feet to 75 feet wide extending along the eastern project boundary of the right-of-way of the 69 kv transmission line running between the Vernon and Bellows Falls plants of NEPCO, a total of approximately 26 miles, of which approximately 3.3 miles will be utilized for a right-of-way for a new 115 kv transmission line to be constructed by Central Vermont Public Service (CVPS); and (2) Commission approval of an easement which NEPCO proposes to grant to CVPS to cross project lands.

As set forth in the application CVPS proposes to construct a 6.8 miles 115 kv transmission line (operated initially at 69 kv), over the lands involved, extending from Asheulot, New Hampshire in the east to Brattleboro, Vermont in the west. Nepco states that power and energy will be received from Public Service Company of New Hampshire at Asheulot and transmitted over the proposed line to CVPS's Brattleboro service area. CVPS will own and operate substation and terminal facilities at Brattleboro, a 0.7 mile portion of the 115 kv line crossing the Connecticut River and Nepco's Bellows Falls-Vernon 69 kv line right-of-way and other Project No. 1904 lands, (for which crossing the easement would be granted), and a 2.8 mile portion of the 115 kv line east of the Connecticut River to Asheulot. The intervening 3.3 mile segment of the 115 kv line will be owned by Nepco and operated by CVPS. CVPS will act as the construction entity for the entire line. Nepco will reimburse CVPS for that portion of the costs associated with Nepco's 3.3 mile segment.

Nepco's proposed revision of the boundary for Project No. 1904 is reflected in its amended Exhibit K-3, Sheets 2B and 3B of 8 (FPC No. 1904-40 and -41). Those sheets would supersede licensee Exhibit K-3, Sheets 2A and 3A of 8 (FPC No. 1904-33 and -34). As redrawn the project boundary would preserve a constant 25 foot wide strip on the east side of Nepco's Bellows Falls-Vernon 69 kv line.[1] Data set forth in the application or otherwise on file with the Commission shows that the land to be deleted from the project boundary is not needed for operation safety or adequacy of Nepco's Bellows Falls-Vernon line and is without recreational value.

The proposed easement covering the transmission line crossing of the Bellows Falls-Vernon transmission line and project lands will not adversely affect power and recreational value. Nepco states that the easement to CVPS will be subjected expressly to the requirements of Commission Order No. 313 issued December 27, 1965, 34 FPC 1546, Paragraph (C).[2]

In our August 1, 1944 order authorizing issuance of the license for Project No. 1904, we found, among other things, (4 FPC 670, 671), that: "Under present circumstances and conditions, and upon the terms hereinafter imposed, the project is best adapted to a comprehensive plan for improving and developing the Connecticut River for the use and benefit of interstate commerce, for the improvement and utilization of water power development, and for other beneficial public uses, including recreational purposes;". Article 21 of the license for the project, which was issued jointly to Connecticut River Power Company and New England Power Company, (later transferred to New England Power Company (14 FPC 504)) provides, among other things, that "each Licensee, its successors and assigns will, during the period of this license, retain the possession of all project property covered by this license * * * including the project area * * * and that none of such properties necessary or useful to the project * * * will be voluntarily sold * * * without the approval of the Commission.

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[1] The western boundary of the line as set forth on the aforementioned Exhibit K-3, Sheets 2A and 3A of 8 (FPC No. 1904-33 and -34) now on file with the Commission is not affected by subject application.

[2] Paragraph (C) states in part as follows:

> The Commission will not grant any authorization for a licensee to dispose of any interest in project lands, unless a showing is made that such disposal is not inconsistent with any approved recreational plan or in the absence of such a plan, that the lands do not have recreational value. * * * The licensee, in the absence of specific Commission exemption from these requirements, shall include in the instrument of conveyance a covenant running with the land adequate to insure that, unless the Commission subsequently authorizes a different use as consistent with a comprehensive plan for improving or developing the waterway, the use of the lands conveyed will not endanger health, create a nuisance, or otherwise be incompatible with over-all project recreational use.

To date Nepco has not submitted a recreational use plan for the Vernon Project, it not being specifically required by the order issuing the license. That order provides in part, 4 FPC 672, " * * * The operation by the licensee * * * of the project works * * * shall at all times be controlled by such reasonable rules and regulations * * * as the Commission may prescribe for the protection of life, health, and property and in the interest of the fullest practicable conservation and utilization of such waters * * * for * * * beneficial public uses, including recreational purposes * * *." Licensee has submitted to this Commission a brochure setting forth in general terms, the present development and use of a number of the licensee's hydroelectric developments in the stretch of the Connecticut River which includes Project 1904. Specific recreational facilities are not now included at Project 1904.

The Commission finds:

(1) Amended Exhibit K-3, Sheets 2B and 3B of 8 (FPC No. 1904-40 and -41) conform to the Commission's rules and regulations and should be approved as part of the license for Project No. 1904 and license Exhibit K-3, Sheets 2A and 3A of 8 (FPC No. 1904-33 and -34) superseded by the aforementioned sheets should be eliminated from the license for the project.

(2) It is necessary and appropriate for the purposes of the Federal Power Act to authorize Nepco to grant the easement over Project No. 1904 lands or interests therein as described in the recital above upon the terms and conditions as hereinafter provided.

The Commission orders:

(A) The amended Exhibit K sheets described in the findings above are hereby approved as part of the license for Project No. 1904, and the license Exhibit K sheets described in the findings above as superseded are hereby eliminated from the license for the project.

(B) Nepco is hereby authorized to grant the aforementioned easement to CVPS, subject to recognition in the instrument granting any such easement of Nepco's rights and responsibilities under its license for Project No. 1904, and a covenant ensuring that the use of such lands will not endanger health, create a nuisance, or otherwise be incompatible with overall project recreational use in accordance with paragraph (C) of the Commission's Order No. 313, issued December 27, 1965, 34 FPC 1546 (18 CFR 2.7(C)).

(C) Nepco shall file copies of the easement referred to in paragraph (B) above within 30 days of its execution.

(D) Nepco shall, within six months of the date of issuance of this order, file for Commission approval a further revised Exhibit K, Sheet 3 of 14 (FPC No. 1904-21) to reflect the granting of the easement.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

PERMISSIBLE PROVISIONS FOR PRICE CHANGES IN INDEPENDENT PRODUCER RATE SCHEDULES—LIBERALIZATION, DOCKET NO. R-298

ORDER NO. 329

AMENDING SECTION 154.93 OF THE REGULATIONS UNDER THE NATURAL GAS ACT

(Issued December 1, 1966)*

On January 26, 1966, the Commission issued a notice of proposed rulemaking in this proceeding (31 F.R. 1316, February 3, 1966) proposing to amend § 154.93 of the Regulations under the Natural Gas Act by enlarging the categories of permissible provisions for price changes in independent producer contracts for the sale of natural gas for resale in interstate commerce. In addition to the three categories of permissible provisions now permitted, a further type of contractual provision was proposed which would permit an additional price increase up to the just and reasonable area rate which may be prescribed in an area rate proceeding.

Of the nine responses to the notice, two[1] approve the proposed rule as drafted, three[2] favor the proposal but suggest some modifications and three[3] were opposed.

The suggested modifications of the proposed rule are similar in nature and suggest only a more precise definition of the term "area rate prescribed." Thus, the California Commission proposes the following language:

> Provisions that permit a change in price to the applicable, just and reasonable area ceiling rate which has been, or which may be, prescribed by the Commission for the area of the price in question for the quality of the gas involved.

We agree that the suggested language is more precise and should be adopted with a minor change.

Pan American argues in opposition to the proposed amendment that the Commission, by issuing regulations setting forth permitted price changing provisions and prohibiting all other provisions, instead of issuing orders specifying the price changing provisions that are inconsistent with the Natural Gas Act and permitting all others, is creating the necessity for continuously amending its regulations. It requests that Order Nos. 232, 232-A and 242[4], which amended the Regulations under the Natural Gas Act to prohibit the filing of contracts containing other than the permitted clauses, be vacated *ab initio* and that a hearing be held to determine specifically which contract provisions are to be prohibited. These arguments have been considered and rejected by the courts in reviewing the action taken by this Commission in these rulemaking orders[5], and we believe that there is no need to discuss again these contentions.

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*Published in the Federal Register on December 8, 1966 (31 F.R. 15485).

[1] Shell Oil Company and The California Company.

[2] Philadelphia Electric Company, Washington Gas Light Company, and The People of the State of California and the Public Utilities Commission of the State of California (California Commission).

[3] Pan American Petroleum Corporation, Phillips Petroleum Company, and Associated Gas Distributors.

[4] Reported in 25 FPC 379, 25 FPC 609, and 27 FPC 339, respectively.

Phillips Petroleum agrees that the regulation should be amended to permit contract pricing provisions which provide for price increases to a just and reasonable rate prescribed by the Commission, but argues that the limitation of the permissible contract price clause to the just and reasonable *area* rate is undesirable and would limit rate increases only to those determined in area rate proceedings. Phillips also interprets the language of the proposal to preclude the filing of petitions for relief from the maximum rate set for any Permian Basin area sale, as provided for in Opinion No. 468, *Area Rate Proceeding,* Docket No. AR61-1, issued August 5, 1965, 34 FPC 159 (p. 227).

It appears that Phillips' objection to the proposed rule is basically an objection to the area rate approach of regulation adopted by the Commission in Opinion No. 468. These objections were there fully discussed and rejected. Nor does the proposed rule conflict, as Phillips contends, with our statement in Opinion No. 468 concerning the filing of petitions for relief from the maximum rate set for any jurisdictional Permian Basin area sale. Neither the rule as proposed or as here being adopted enlarges upon or diminishes whatever rights a producer otherwise may have to file such a petition. We see no present need to further liberalize the pricing provisions permitted in producer contracts beyond the scope of the proposed rule. The need for such action has not been shown since the producer should be able adequately to protect itself through the utilization of permissible pricing provisions.

The Associated Gas Distributors (AGD) contend that the proposed liberalization of the permissible contract provisions is not appropriate at this stage of the area rate proceedings and argue that the proposed rule appears to be inconsistent with the two-price system of producer regulation adopted by the Commission in Opinion No. 468 and recommended by AGD in the Southern Louisiana proceedings. AGD apparently fears that under the rule as proposed current gas prices could escalate to any higher future area rate ceiling that might be adopted. Our modification of the proposed rule in response to the California PUC comments to provide for changes to the *applicable* area ceiling would permit a change in price only to the ceiling applicable to gas of the vintage and quality involved. It will, of course, remain the Commission's responsibility in each area rate order precisely to define the area rate or rates in question.

The Commission further finds:

The amendment of § 154.93 is necessary and appropriate for the purposes of carrying out the provisions of the Natural Gas Act.

The Commission, acting pursuant to the provisions of the Natural Gas Act, as amended, particularly sections 4, 7, and 16 thereof (52 Stat. 822, 825, 830, 56 Stat. 84, 15 U.S.C. 717c, 717f, 717o, 717s), *orders:*

(A) Part 154, Subchapter E, Chapter I, Title 18 of the Code of Federal Regulations is amended as follows:

Section 154.93 is amended by deleting the word "and" at the end of paragraph (b), and by adding a new paragraph (b-1) as follows:

§ 154.93 Rate schedule defined.

* * * the permissible provisions for a change in rate are:

* * * * * * *

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[5] *Texaco Inc.* v. *F.P.C.,* 317 F. 2d 796 (CA10–1963), reversed *F.P.C.* v. *Texaco Inc.,* 377 U.S. 33; *Superior Oil Company* v. *F.P.C.,* 322 F. 2d 601, cert. denied, 377 U.S. 922; and *Pan American Petroleum Corporation* v. *F.P.C.,* 352 F. 2d 241 (CA10).

(b-1) Provisions that permit a change in price to the applicable just and reasonable area ceiling rate which has been, or which may be, prescribed by the Commission for the quality of the gas involved; and

(B) The amendments prescribed herein will be effective December 31, 1966.

(C) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

OPINION NO. 507

COMMONWEALTH EDISON COMPANY AND CENTRAL ILLINOIS ELECTRIC AND GAS COMPANY, DOCKET NO. E-7275

OPINION AND ORDER AUTHORIZING MERGER

(Issued December 2, 1966)*

Syllabus

1. Proposed merger, while not necessarily only course of action open to Central Illinois, is consistent with the public interest. P. 930.
2. Touchstone of successful operation in today's electric power industry is coordination of operating facilities to achieve full economies of scale made possible by advancing technology. P. 930.
3. In evaluating a merger application, a "showing that positive benefit to the public will result", is not required. P. 931.
4. Ultimate determination in passing upon a merger application is not whether in Commission's judgment merger is only technique by which over-all objectives of the Act could be accomplished, rather, it is enough if upon analysis Commission concludes that, in applicants' particular circumstances, merger is consistent with the public interest. P. 931.
5. Question of whether particular merger is consistent with public interest necessarily starts with its consistency with substantive standards of the Federal Power Act and particularly primary objective spelled out in Section 202(a) of promoting and encouraging maximum regional coordination and interconnection. P. 931.
6. It is not sufficient to consult Federal Power Act alone in evaluating scope of public interest standard of merger; it is necessary to examine entire Public Utility Holding Company Act of 1935. P. 931.
7. It is appropriate to inquire into extent to which operation of merged facility will be consistent with "integrated public utility" concept of Section 2(a) (29) (A) of Holding Company Act of 1935. P. 932.
8. Parallelism between the Securities and Exchange Commission's authority under Title I of Public Utility Act of 1935 and Commission's responsibilities under Title II is apparent here. P. 932.
9. Since instant case provides cross section of issues ordinarily arising in merger cases, Commission discusses its statutory responsibilities and the criteria applied in order to provide guidance to utilities contemplating merger—decision is not intended, and does not, establish Commission policy in favor or against mergers as such. P. 932.
10. Record indicates price is fair and reasonable to companies, their respective stockholders and customers. P. 937.

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*Rehearing and stay denied by order issued January 30, 1967, 37 FPC 257. Affirmed, *Utility Users League, et al.* v. *F.P.C.*, 394 F. 2d 16 (CA7–1968); cert. denied, 393 U.S. 953 (1968).

11. Accounting fairly presents results of merger transaction and accords with generally accepted accounting principles and requirements of Uniform System of Accounts. P. 937.

12. Commission discusses cost savings and other benefits inherent in proposed merger. Pp. 937–940.

13. In passing on merger, it is Commission's responsibility to consider effect thereof on state regulation of retail rate design. P. 938.

14. Commonwealth's acquisition of Central Illinois will result in no immediate rate increases; no adverse economic consequences will flow from approval of merger. P. 940.

15. Commission *finds* merger was not coerced by acquiring utility. P. 940.

16. Commission spells out questions to be considered concerning "anti-competitive effect" of a merger in context of regulated public utilities. P. 941.

17. Commonwealth's merger with much smaller neighbor will not add appreciably to its command of economic power or relative size with respect to other utilities and will not choke off potential areas of competition between Central Illinois and Commonwealth. P. 941.

18. There is no showing that merger will have any adverse effect on any competition which may exist between electric power and other energy sources. P. 941.

19. Record is clear that future Federal and state commission regulatory effectiveness will not be impaired as result of merger. P. 942.

20. While requirements of Holding Company Act are not binding on Commission in determining public interest within meaning of Section 203 of the Power Act, basic congressional policies as to integrated operation imbedded in Holding Company Act are considerations in passing upon merger proposals of operating companies with burden on applicants to demonstrate why operation of noncontiguous electric territories or combined gas and electric facilities is consistent with the public interest. Pp. 942, 943.

21. Final determination of the propriety of Commonwealth's continued operation of gas properties and noncontiguous electric facilities need not be a condition precedent to approval of merger; Commission retains jurisdiction over question for final disposition at later date. P. 943.

22. Motion seeking dismissal of merger application, or in the alternative, requesting further hearing regarding public ownership of properties, is denied. Pp. 943, 944.

23. In a proceeding under Section 203 of the Federal Power Act, Commission *authorizes* merger of Central Illinois' facilities with those of Commonwealth, subject to future consideration of continued operation of acquired gas and isolated electric properties.

Sherman S. Poland and *Bernard A. Foster, Jr.* for Central Illinois Electric and Gas Company.

Charles A. Bane and *Richard G. Ferguson* for Commonwealth Edison Company.

William E. Collins for the City of Rockford, Illinois.

Wallace E. Brand and *Thomas Nelson* for the Staff of the Federal Power Commission.

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Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

WHITE, *Chairman:*

Introduction

This proceeding, brought under Section 203 of the Federal Power Act,[1] involves a joint application filed March 2, 1966, by Commonwealth Edison Company (Commonwealth) and Central Illinois Electric and Gas Company (Central) for an order authorizing Commonwealth and Central to merge. Under the agreement and plan of merger, which is set out as Exhibit L to the application, and upon its becoming effective, Central will cease to exist as a separate entity and Commonwealth, as the surviving corporation, will succeed to all the rights, privileges, franchises, facilities, assets and liabilities of Central. The former Central system thereafter will be operated as an integral part of Commonwealth. The merger plan was approved by the Illinois Commerce Commission in an order issued April 27, 1966.

Following the filing on March 2, 1966, public notice of the application was issued on March 8, 1966, and a hearing thereon was set by order dated June 3, 1966. Pursuant to responses to the notice a further order was issued on July 6, 1966, granting intervention in the proceeding to the Utility Users League, *et al.*,[2] and the City of Rockford, Illinois; no other petitions to intervene were filed. Hearings commenced on July 11, 1966 and the record was closed on July 20, 1966, after five hearing days.[3] At the conclusion of the hearing, counsel for Commonwealth and Central moved that the intermediate decision procedure be waived and that the decision in the proceeding be rendered directly by the Commission. The motion was certified to us by Examiner William L. Ellis and was granted by order issued August 19, 1966,

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[1] 49 Stat. 849, 16 U.S.C. 824(b).

[2] Utility Users League, Nickolas L. Barnes, Sidney J. Rosenberg and Harry R. Booth.

[3] Utility Users League was permitted to conduct cross-examination by the use of written interrogatories. It was not otherwise represented at the hearings. The City of Rockford made a statement of position urging our approval of the application but did not otherwise participate.

36 FPC 482. Briefs have been exchanged and the proceeding is now before us for decision on the merits.

The Commission has had occasion to consider a number of merger proposals in the past but, in recent years, public hearings have been required only infrequently. In setting this application for hearing[4] the Commission recognized the changing nature of the electric power industry and the important legal and policy considerations which mergers raise with respect to the administration of our regulatory responsibilities under the Federal Power Act. Accordingly, we announced our intention to require public hearings in the future on all applications requesting approval of the merger or consolidation of two or more Class A electric utilities. In order to have a complete record and the views of the parties on the legal and policy issues before us in this case, the parties were directed to address themselves to the general considerations raised by the proposed merger and the overall requirements of the Federal Power Act, in addition to providing the factual data with respect to their applications.

For reasons hereinafter set forth, we find that the proposed merger, while not necessarily the only course of action open to Central which would permit it to meet its ever-increasing demand for energy and to enjoy the economies of scale, is consistent with the public interest. An appropriate order authorizing the merger is attached to this opinion.

Legal and Policy Considerations

Section 203(a) of the Federal Power Act requires that a public utility, before merging or consolidating its facilities, must first secure the authorization of this Commission. We are to approve the request if we find that the planned consolidation or acquisition "will be consistent with the public interest."[5] Under subsection (b), we may apply such terms and conditions to our authorization as we find necessary or appropriate to secure the maintenance of adequate service and proper coordination.

The touchstone of successful operation in today's electric power industry is the coordination of operating facilities to achieve the full economies of scale made possible by advancing technology. There are several ways in which the advantages of coordination may be realized, merger being but one of them. Systems under common management usually operate as integrated entities and make better use of their available resources, including reserve capacity. At the same time, sophisticated techniques of intersystem coordination have been developed which enable two or more separate utilities to achieve a similar degree of operating efficiency. In the 15 year period from 1951 through 1965, 108 jurisdictional mergers involving class A electric companies were approved by the Commission, 40 of which involved the merger of two Class A companies.[6] In the same period, however, there have been approximately 190 coordination agreements of various types, not involving mergers, filed by electric companies subject to the jurisdiction of this Commission. By 1965, 97 percent of the industry's generating capacity was interconnected, and enjoying varying degrees of coordination.

The Commission is aware that the growing need for coordinated operation poses special problems for small systems and focused on the problem in our 1964 National Power Survey. In many cases, small systems are disadvantaged by their inability to share fully in the economies of scale associated with the large-scale generation and transmission of power. A major purpose of the Survey was to suggest alternatives to small and relatively inefficient generating plants, which would permit them to coordinate with large-scale, low-cost power sources on reasonable terms and with the assurance of adequate supply for future expansion. The alternatives to isolated operation, as suggested in the Survey, include the securing of bulk power from outside sources at reasonable prices and on fair terms, sharing reserves through strengthened interconnections, joint or staggered construction of larger and more efficient generating station facilities, and merger. The relative desirability of any one method depends largely upon the circumstances in each specific situation.

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[4] Docket No. E-7275, Order Providing for Hearing, issued June 3, 1966, 35 FPC 877.

[5] See *Pacific Power & Light Co., et al.* v. *F.P.C.,* 111 F. 2d 1014 (CA9–1940). *Cf. Western Light & Telephone Co., Inc.,* Opinion No. 462, 33 FPC 1147 (1965).

[6] In 15 of the 40 cases, the mergers were of affiliated class A companies, both of which were owned by the same holding company. While technically mergers, these actions are more in the nature of intrasystem consolidations.

In evaluating a merger application, a "showing that positive benefit to the public will result," is not required. *Pacific Power & Light Co.* v. *F.P.C.*, 111 F. 2d 1014, 1017 (CA9–1940). At the same time, the Commission properly requires applicants to make a full disclosure of all material facts and "The burden is on them of showing affirmatively that the acquisition or merger is consistent with the public interest." (*Ibid.*) In other words, the ultimate determination in passing upon a merger application, is not whether in the Commission's judgment merger is the only technique by which the companies involved could accomplish the over-all objectives of the Act; rather, it is enough if, upon our analysis of all of the relevant factors, we conclude that the merger, in the particular circumstances of the applicants, is consistent with the public interest.

The question of whether a particular merger is consistent with the public interest necessarily starts with its consistency with the substantive standards of the Federal Power Act itself, and particularly the primary objective spelled out in Section 202(a) of the Act of promoting and encouraging the maximum regional coordination and interconnection "for the purpose of assuring an abundant supply of electric energy throughout the United States with the greatest possible economy and with regard to the proper utilization and conservation of natural resources."[7] It is, however, not sufficient to consult the Federal Power Act alone in evaluating the scope of the public interest standard; it is necessary to examine the entire Public Utility Act of 1935, Title II of which constitutes Parts II and III of the Federal Power Act.[8] The 1935 legislation was designed to bring the electric power industry under effective and continuing regulatory control. Pursuant to Title I (the Public Utility Holding Company Act[9]), the Securities and Exchange Commission supervises the reorganization, simplification, and continued operation of public utility holding company structures. Title II directs this Commission to exercise appropriate regulatory authority over the interstate operating companies including authority over mergers of such companies.

Soon after enactment of this legislation the Commission had occasion to consider the breadth of its review of mergers under Section 203. The Commission found that the section must be interpreted in light of the overall Public Utility Act of which it is a part.[10] More recently, in *Western Light & Telephone Company, Inc.*,[11] we held that the finding required under Section 203 "* * * must obviously be evaluated in the light of the broader context of which Section 203 is a part, namely the 1935 Wheeler-Rayburn legislation[12] directed to curing abuses of public utility operation which had developed during the twenties and early thirties." See also *Duke Power Co.*, Opinion No. 503, 36 FPC 399, issued August 9, 1966.

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[7] Federal Power Act, Section 202(a).

[8] 49 Stat. 838, 16 U.S.C. 791a–825r.

[9] 49 Stat. 803, 15 U.S.C. 79, *et seq.*

[10] *Northern Pennsylvania Power Co. and Metropolitan Edison Co.*, 1 FPC 350, 354 (1936.)

[11] Opinion No. 462, 33 FPC 1147 (1965).

[12] Public Utility Act of 1935, 49 Stat. 803, *et seq.*

These cases and the legislative history of Section 203 plainly require that merger proposals, in addition to being scrutinized for their consistency with the substantive standards of the Federal Power Act, be subjected to analysis within the context of the broad purposes of the 1935 legislation. As part of this analysis, it is appropriate to inquire into the extent to which the operation of the merged facility will be consistent with the "integrated public utility" concept of Section 2(a)(29)(A) of the Public Utility Holding Company Act of 1935, as well as with the standards established under Sections 10 and 11 of that Act by which the SEC is to determine whether holding companies should be permitted to acquire new operating facilities or whether their organizational structure should be simplified.

The parallelism between the Securities and Exchange Commission's authority under Title I of the Public Utility Act of 1935 and our responsibilities under Title II is apparent in this case. While Commonwealth has elected to follow a course of merger with Central, the same end result could have been realized by Commonwealth's creation of a holding company to acquire the Central properties, in which case only the approval of the SEC would have been required. Commonwealth is at present technically a holding company, but has been exempted from the controls of the Public Utility Holding Company Act.

In the light of these considerations the Commission, in determining whether this particular merger is consistent with the public interest, has considered, among others, the following factors: the effect of the proposed action on the applicants' operating costs and rate levels, the contemplated accounting treatment, reasonableness of the purchase price, whether the acquiring utility has coerced the to be acquired utility into acceptance of the merger, the effect the proposed action may have on the existing competitive situation, and finally, whether the consolidation will impair effective regulation either by this Commission or the appropriate state regulatory authority.

Our decision is not intended to, and does not, establish a Commission policy in favor of or against merger as such. Each or all of the previously listed considerations may apply in other cases. It is possible that additional criteria will have applicability in regard to other merger proposals. Nevertheless, because this case provides a cross section of the issues which ordinarily arise in merger cases, to give insight into the scope of the Commission's inquiry we have discussed our statutory responsibilities and the criteria we have applied in order to provide guidance to utilities contemplating merger in the public interest.

The Applicants

Commonwealth, an Illinois corporation, is engaged exclusively in providing electric service in Illinois. Its service area, which is wholly contiguous and reasonably compact, includes approximately the northern third of the State (except for territory presently served by Central) and covers about 11,000 square miles. It provides electric service to the City of Chicago and surrounding suburbs. It has 2,272,700 customers in an area whose estimated population exceeds 7,100,000 persons. On December 31, 1965, Commonwealth's net utility plant totalled $1,788,082,518, and its operating revenues and net income reached $589,315,479 and $108,947,094, respectively. In the five years ending with 1965, its sales in kilowatt hours (kwh) to ultimate consumers increased at a compound annual rate of 7.3 percent. It currently operates 12 steam generating stations with a net capability of 7,764,000 kw. In 1966, its peak load reached

6,788,000 kilowatts (kw). Its average production cost was 2.73 mills per kwh for fuel and 3.60 mills per kwh for total production.

Central, too, is an Illinois corporation engaged in supplying electric energy within that state. Unlike Commonwealth, however, Central also operates a gas utility business, and provides minor amounts of water and steam heat services.[13] Its service area is comprised of five noncontiguous territories, the largest (about 500 square miles) being the Rockford division, which is located on the northern border of Illinois and is surrounded on three sides by Commonwealth's service area.[14] The Rockford division serves 78 percent of Central's electric customers and 81 percent of its gas customers. Central's other areas of service are its Lincoln division (consisting of three separate "islands" of service territory, the Lincoln, Homer, and Bement areas) and the Albion division, a small service area in the southeastern part of the state. The company serves 94,468 electric and 87,227 gas customers.

On December 31, 1965, Central's net utility plant totalled $91,681,655 ($56,422,122 electric, $33,761,799 gas), its operating revenues reached $40,533,403 ($22,951,829 from electric, $17,126,436 from gas), and it realized a net income of $6,542,284. For the five years ending in 1965, Central's kwh sales increased at a compound annual rate of 7.8 percent. It has a net generating capability of 239.5 megawatts (mw) from two generating stations (Fordham and Sabrooke in the Rockford Division) and it estimates a 1966 peak load of 210 mw. In 1965, its average fuel cost was 3.01 mills per kwh and its average total production cost reached 4.59 mills per kwh. Thus, comparing respective net plants, Central is 5 percent the size of Commonwealth; comparing only electric facilities, Central has little more than 3 percent of the plant enjoyed by Commonwealth.

Through its bulk power system, Commonwealth is interconnected with seven other power companies. It has two 345-kilovolt (kv) lines to American Electric Power Company; one 345-kv and one 138-kv line to Wisconsin Electric Power Company; four 138-kv lines to Illinois Power Company; three 138-kv lines to Northern Indiana Public Service Company; and one 138-kv line each running to Central Illinois Light Company, the Interstate Power Company, and to Central. Future interconnections are planned for three 345-kv lines to Central Illinois Public Service Company, Iowa-Illinois Gas and Electric Company, and Illinois Power Company. Three additional 138-kv lines are under construction—one each to Central Illinois Light Company, Northern Indiana Public Service Company, and Central. Furthermore, electric energy will soon be transmitted over a 345-kv line linking the Chicago area with downstate Illinois and the St. Louis, Missouri, area. Upon completion of the Quad-Cities project, owned jointly by Commonwealth and Iowa-Illinois Electric Company, power will be transmitted over a new 345-kv line passing through a large part of the Rockford territory now served by Central.[15] At least in recent years, Commonwealth has used most of these interconnections for reserve-sharing coordination with the other utilities.

Between 1958 and 1962, Commonwealth installed six units in the 300-mw class as well as a 200-mw nuclear unit. In 1963, it installed its first unit in the 500-mw class; in 1965 and 1966, two more steam units were added, each with a capability of 580 mw. The company now has under construction, or on order, two 600-mw units planned for 1967 and 1968, two 800-mw nuclear units planned for 1969 and 1970 and two other joint participation nuclear units of 800 mw each, which are to be completed in the 1970–71 period. Commonwealth submitted evidence to show a 27 percent savings in investment costs per kw from a 600-mw unit as against a 100-mw unit. This is consistent with the findings in the National Power Survey that great savings are associated with large generating units.

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[13] Water service is supplied to 4,800 customers in the Lincoln division and steam heat service to about 400 customers, in Rockford, Illinois. Operating revenues from these services totalled $475,138 during 1965.

[14] A map showing Commonwealth's and Central's service areas is attached as Appendix A.

[15] Commonwealth participates in the Mid-America Interpool Network (MAIN), a planning group of eight large electric utilities in the Middlewestern area. It is also a member of the Interconnected Systems Group and North American Power Systems Interconnection Committee.

Central, on the other hand, has until recently operated on a virtually isolated basis, at least with respect to the Rockford division where all of its generation is located.[16] As mentioned earlier, it has one 138-kv tie to Commonwealth and another is under construction. Central in recent years has taken advantage of its interconnection (with Commonwealth's approval) to reduce the reserve capacity it would otherwise have to maintain. It has no interconnection or other direct relations with any other system, though, in recent years, it has tried unsuccessfully to associate its operations with those of some of the nearby Wisconsin, Illinois, Iowa and Indiana companies.

The Merger Proposal

Upon merger, the management of Commonwealth would be in complete control of the merged entity and the common shareholders of Central would become shareholders of Commonwealth. Each of the common shares of Central would automatically be converted into one share of new $1.425 convertible preferred stock of Commonwealth. Each share of Commonwealth preferred stock would be convertible, at the option of the shareholder, into six-tenths of one share of Commonwealth common stock. The convertible preferred stock would be redeemable at the option of Commonwealth after five years from the date of issue at a redemption price of $42.00 per share, plus accrued and unpaid dividends. Central will redeem its outstanding preferred stock.[17]

The transaction would be accounted for under the "pooling of interest" concept; the assets and liabilities reflected in the various accounts of the merged companies would be combined to form the accounts of the surviving corporation with no change in the basis of accountability. Commonwealth would record the $1.425 convertible preferred stock at its aggregate stated value ($31.80) per share and transfer from its premium on common stock the difference between such stated value and Central's common equity. Therefore, no plant acquisition adjustment would appear on the surviving corporation's books.

The merger plan has been adopted by the respective boards of directors of Commonwealth and Central and has been approved by the stockholders of Commonwealth and the Illinois Commerce Commission.

The merger proposal contemplates total integration of all of Central's facilities into those of Commonwealth. In the immediate future, 1967, 1968, and 1969, Commonwealth does not plan to alter the present operation of Central's facilities. Eventually, Central's customers would be wholly assimilated into the Commonwealth system. Although a reduction in the total number of employees is expected, Commonwealth says this will be accomplished by voluntary resignations in the same manner it has reduced its employment rolls from 15,849 at the end of 1954 to 12,251 at the end of 1965. Commonwealth's Board Chairman stated at the hearing that no involuntary separations of Central employees are anticipated.

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[16] At its Rockford division, Central generates enough power to supply its Homer and Bement divisions. That power, pursuant to a multi-party interchange agreement, is sold first to Commonwealth and in turn to the Illinois Power Company which redelivers the power to Central at its Homer and Bement service areas. The energy requirements for Central's two remaining Central Illinois service areas are met entirely through purchase agreements, the Lincoln area being supplied power by the Central Illinois Light Company and the Albion area by the Central Illinois Public Service Company.

[17] Under Illinois law any shareholder dissenting from a proposed merger may (under certain circumstances) demand payment in cash from the surviving corporation for the fair value of his shares. Ill. Rev. Stat., 1965, Ch. 32, Sec. 157.70.

One major alteration in Central's present bulk power supply arrangement would be the interconnection of the Rockford service area with one of the planned 345 kv Commonwealth transmission lines which are to run from the company's Quad Cities nuclear project on the Mississippi River to the western edge of the Chicago metropolitan area. The interconnection will be completed by 1970. Two Commonwealth 138 kv transmission lines that now traverse Central's Rockford area also would become available to meet those needs. Additionally, two single circuit 345 kv lines will be constructed in 1967 and 1968 to carry power into what presently comprises Central's Lincoln service area. As an immediate effect of these alterations, Central's less efficient Fordham facilities will be retired by 1970, and annual generation at its Sabrooke station will be reduced substantially. It is estimated that Commonwealth will provide the Rockford area with 158 mw of capacity by 1970 (compared to the maximum of 20 mw now under contract) and 285 mw of capacity by 1975 through the new interconnections.[18]

According to the applicants, the single most important reason which necessitates the merger is Central's need for an increased power supply. Demand in its Rockford division has increased at a rate in excess of 6 percent per year in the 10 years between 1955 and 1965, and it is estimated that by 1971 it can expect a demand approximating 300,000 kw, representing almost a 50 percent increase over its 1965 peak demand. Prior to filing its merger application, Central considered three other courses of action: (1) continued self-generation by the installation of additional generating capacity; (2) the acquisition of its additional power requirements from other utilities, primarily Commonwealth; and (3) participation in a large generating unit through some form of condominium ownership with other utilities. Central's witnesses testified that it does not consider that any of these alternatives would suit its needs as satisfactorily as would the proposed merger.

Under the first plan Central would have added new generating units of 100 and 125 mw, respectively, in 1968 and 1972. The costs of the units were estimated at $13,300,000 and $16,750,000. With these additions, together with the purchase of relatively small amounts of energy from Commonwealth, it was estimated that Central would be able to meet its predicted loads through 1975. The record makes clear, however, that by installing the additional units contemplated, Central would forego much of the economies of scale available under present technology. Those savings are not insignificant; the record discloses that the additional economies of scale which would not be made available under the self-generation alternative could be expected to result in cost reductions in excess of $13 million over a ten-year period, some or all of which could be available for the reduction in electric charges to the ultimate consumers on the present Central system. Further, under the self-generation plan, a new plant would have to be located in or near the City of Rockford, against the wishes of the residents of that city. The City favors the merger since it would obviate the need for this plant.

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[18] These figures do not take into account the residual peak generating capacity from Sabrooke of 146 mw. Thus, the total capacity available in 1975 will be 431 mw; the record indicates that 430 mw will be needed at that time, including a 12 percent reserve.

Under the second alternative Central would obtain the bulk of its future requirements from Commonwealth under an arrangement which, as a condition, would require that Central only maintain reserves equal to 12 percent of its estimated peak load. This is comparable to the reserve capacity maintained by Commonwealth in its own system. The price offered by Commonwealth is $1.75 per kw per month for capacity and Commonwealth's out-of-pocket cost plus 10 percent for energy. The same bulk power facilities that would become available as a result of the merger would be present in this situation. Without here attempting to pass on the exact rate to which Commonwealth would be entitled after a full rate proceeding, it appears on this record that the proposed rate is a bona fide offer which reasonably reflects Commonwealth's present average generation and transmission costs. But because the contract rate is fixed on the basis of present average costs, Central and its customers would not secure the full benefits of the lower costs which would be associated with the more efficient plants now under construction by Commonwealth and those planned for the future. Moreover, it does not appear that it would be appropriate to require Commonwealth to price such a major sale entirely on an incremental basis, which alone could give Central the full benefits of scale. From Central's point of view, this plan is not as attractive as the self-generation alternative, since its estimated net income with the self-generation would be more than $3,000,000 greater over a ten-year period than it would be if it accepted the Commonwealth offer.

The last alternative course of action considered by the applicants was the possibility that Central would join with other neighboring utilities in constructing a 500-mw mine-mouth generating facility in the central Illinois coal fields. But the other utilities contacted decided that they could not or would not participate in a plant of the type proposed by Central. One reason brought out by staff for the failure of the project lies in the fact that most of the other companies who could have participated are already involved in intrastate and interstate pool agreements or have geographic motivations for coordinating in directions other than toward Central's bulk power system which lies isolated within Commonwealth's service territory. Whatever the validity of their reasons for declining to join with Central in the construction of a project of this type, their refusal effectively eliminated this alternative.

While the record does not disclose any discussions between Central and Commonwealth looking towards joint construction of larger units, the relatively small needs of Central indicate the difficulties which would be associated with any such effort. Nevertheless, we believe that neighboring systems should be encouraged to explore the possibilities and opportunities inherent in this method of coordinating generation requirements along with the various other methods of coordination that are available. Significantly, Commonwealth has entered into a joint ownership arrangement with Iowa-Illinois Gas and Electric Company, which adjoins its territory to the west, and is only about twice as large as Central. In that instance, however, Iowa-Illinois was able to rely upon its membership in the Iowa pool to contract for a 400,000 kw commitment in 1966, more than four times Central's needs as of that date.

Analysis of the Merger

As noted earlier, there are a number of factors which this Commission must consider in analyzing whether a merger proposal is consistent with the public interest. These considerations are designed to determine the effect which the merger would have on the two utilities involved, their consumers, and on the maintenance of an adequate, reliable and economical power supply. Accordingly, we now turn to an evaluation of the Central-Commonwealth proposal.

Reasonableness of Purchase Price

As part of our evaluation of Section 203 acquisitions, we have jurisdiction to consider the reasonableness of the purchase price.[19] Based on the prices of the respective stocks on January 20, 1966, the date the announcement of the plan to merge was made, Commonwealth would have been paying approximately $24 million more than the then market value for the acquisition.[20] Obviously, Central, which is a prosperous going concern, would not agree to a merger which did not give its stockholders any immediate benefits. The evidence shows, however, that the purchase price was agreed upon after hard bargaining by both parties and that Commonwealth's offer was based on many factors, including market value, earnings, book value, sales and growth prospects considering the economies expected to be achieved by the merger. The record indicates that the price is fair and reasonable to the companies, their respective stockholders, and their customers who under applicable law, will not have to shoulder any burden resulting from the payment of a price in excess of the depreciated original cost of the Central properties merged into Commonwealth.

Accounting Treatment

The proposed merger involves an exchange of stock; no cash payment will be made. The capitalization of the surviving corporation, upon effectiveness of the merger, will not exceed the aggregate capitalization of Commonwealth and Central. There will be no acquisition adjustment and the assets will continue to be stated at original cost or less. Whatever premium is paid by Commonwealth over the book and market value of Central will be charged to the stock and capital surplus accounts and will not affect the ultimate consumers of either system.

We believe that the accounting fairly presents the results of the merger transaction and will accord both with generally accepted accounting principles and the requirements of our Uniform System of Accounts prescribed for public utilities subject to the Federal Power Act.

Economic Effect

We would be hard pressed to sanction a merger that would necessarily have the effect of increasing the operating costs that might be expected otherwise to result from independent operation or have an adverse effect on rate levels. But approval of the merger before us, far from having any such adverse economic consequences, should provide a basis for cost savings and eventual rate reductions.

The evidence shows that the merger will result in substantial bulk power economies as contrasted with the continuation of separate corporate entities. Because of its size, Commonwealth is able to take full advantage of the economies of scale. It has been able to work out large volume deliveries of coal in unit trains. A mine-mouth generating station will shortly begin operation, connected with the company's system by two EHV lines. Important economies of scale will be realized as a result of the construction of its four new 800-mw nuclear units. The primary benefits to be obtained through the merger, however, lie in its effect on the cost and quality of the bulk power supply available in the future to consumers in Central's service areas. For 1965 Central's production costs were 4.59 mills per kwh, even with a large supply of low-cost gas being used as boiler fuel. For the Commonwealth system as a whole, the corresponding figure was 3.60 mills per kwh, only 78 percent of

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[19] See *Southern California Edison Company and Desert Electric Cooperative, Inc.*, Opinion No. 457, 33 FPC 687, 688.

[20] A comparable calculation using present market prices shows almost equal valuation under the 6:10 conversion rate set out in the merger agreement.

Central's production costs. Commonwealth's total costs, including carrying charges, for energy delivered to Commonwealth's system from its new, large generating plants now under construction has been estimated at 4 to 4.5 mills per kwh, less than Central's average production costs excluding carrying costs.

Other benefits anticipated from the merger include increased utilization of the two 138 kv transmission lines of Commonwealth which presently cross Central's Rockford service area as well as the 345 kv Quad-Cities line, improved service in the boundary areas, centralized planning of the transmission and distribution systems, the availability to Central's customers of Commonwealth's active research and development program and its industrial development department. In addition to the $13 million in generating and transmission costs which the merger will make possible over a ten-year period, substantial annual savings may be expected. These include $1 million from a reduction in the number of employees to carry on the merged operations, $300,000 from the elimination of duplicative administrative and general functions, $100,000 in interest savings, and an amount approximating $1 million in before-tax economies largely through replacing Central's preferred stock with debt capitalization.

Very much a part of our inquiry into the question of economic effect must be whether the elimination of the independence of the acquired company and resulting combination of the facilities of the now separate entities would in itself be likely to effect unnecessary rate increases or inhibit possible rate reductions. *Western Massachusetts Electric Co.*, 3 FPC 345; *Northwestern Electric Co.*, 5 FPC 312.

Aside from its limited interchanges with Commonwealth, Central has no wholesale sales, and the effect of the merger on Commonwealth's wholesale rates would be *de minimis.* The rate question insofar as the merger is concerned thus is essentially a matter of retail rates which are of course subject to regulation by the Illinois Commission which has already approved the merger. The continuing responsibility for insuring that the cost benefits of the merger will at the retail level properly be apportioned between stockholders and consumers and between various categories of consumers likewise is a matter for the state commission. Nevertheless, we believe it is our responsibility under the Federal Power Act in determining whether a merger is consistent with the public interest to consider what effect the fact of merger would have on rate levels or on state regulation of retail rate design.

For the immediate post-merger period, Commonwealth, in accordance with the order of the Illinois Commission in approving the merger, will maintain Central's existing rate structure, subject to the application of Commonwealth's fuel adjustment clause which will bring about a $270,000 annual reduction in charges to Central's customers. Moreover, these customers as a group will not be adversely affected should Commonwealth with the approval of the Illinois Commission subsequently substitute its own out-of-Chicago retail rate structure for that of Central. On the contrary, the record shows that the application of Commonwealth's rates to Central's business would yield four-tenths of one percent less revenues than Central's existing rates. While the aggregate revenues would therefore be approximately the same, there are, as might be expected, considerable variations from rate to rate. In some cases, Central's rates are lower; in others its charges are higher.

There are two factors favoring Central in a rate comparison, and two counterbalancing factors favoring Commonwealth. First, Central's Rockford urban residential rate has a service charge of 75 cents and Commonwealth's is $1.50. While Commonwealth's terminal block charge is lower, it takes a relatively large consumption to overcome the difference in service charge. Second, the demand rate applicable to Rockford's commercial customers contains a low terminal block charge, beginning at relatively low consumptions, as compared with Commonwealth's rate which is a standard two-part rate with demand and energy charges graduated as customer usage increases.

The factors favorable to Commonwealth are first, that Central's residential customers outside the Rockford division urban territory pay substantially higher charges than would be applicable under Commonwealth rates, and second, Central's industrial customers with demands in excess of 300 kw pay substantially higher rates than would be applicable under Commonwealth's rate schedule. As the industries in Central's service area continue to grow, the difference between Commonwealth's and Central's billings under existing rates for large customers would be even more pronounced in favor of Commonwealth's rates.

In general, and disregarding the relatively minor block differentials, the rate charges in the Rockford and Lincoln divisions would be approximately equal whether billed under Central's existing rate schedules, or under Commonwealth's presently applicable rate schedules. Central's Albion division has fewer than 2,000 residential customers, and billings under the applicable residential rates are in almost all cases higher than they would be under Commonwealth's rates. Albion's industrial and commercial revenues, in the aggregate, are only a little over $300,000 and are slightly higher than they would be under Commonwealth's rates. Of course, because of differences in rate structures not all customers are equally affected. Where generally lower charges have been indicated under Commonwealth's rates, particular customers may nevertheless pay more than under the Central rate schedule while the reverse may be true for rates which, in total, show an advantage for Central.

The long-range rate picture under merger is more complex, but here, too, there is nothing to indicate that Central's customers will fare worse than if it continued independent operations. Commonwealth has made rate reductions totaling $31,000,000 since 1962, and expects further fuel clause reductions totaling an additional $9,000,000 in the near future. Excluding fuel clause adjustments Commonwealth has reduced its rates by about 4 percent of gross revenues. Central also has made significant rate reductions but has not been reducing rates at the same pace as Commonwealth. It has reduced its rates an aggregate of about $854.000, or by about 2 percent of gross revenues exclusive of fuel clause reductions. And as we indicated *supra*, the cost savings available for rate reductions under merger will be greater than those available to an independent Central.

Central, operating almost entirely on its own and without access to the economies of scale, has still been able to maintain both a favorable profit picture and rates comparable to those of Commonwealth. This strongly suggests that the Rockford area possesses substantial cost advantages with respect to its distribution activities over Commonwealth, which must shoulder the special distribution burdens of operation in the City of Chicago, and at the same time serves many areas outside Chicago with much lower densities of use than in the Rockford area. To the extent this may be true, a retail rate design such as that apparently contemplated by Commonwealth, wherein it would apply its present rate schedules to Central's customers, makes the Rockford area shoulder some of the higher distribution costs of other Commonwealth service areas. Over a period of time this could dilute the advantages of the merger to Central's customers. But we need not attempt to evaluate here the extent of any such dilution, or whether it could be sufficient to outweigh the rate advantages of merger insofar as bulk power considerations are involved, for the entire rate design question is a matter of retail rate regulation coming within the competence of the Illinois Commission. Thus, to the extent that the public interest requires special consideration be given to any Rockford distribution advantages, the Illinois Commission can take such action as may be necessary to protect such factors.

In summary, we are satisfied that Commonwealth's acquisition of Central will result in no immediate rate increases (and in fact slight decreases), and over a course of years can make available to Central's customers significantly greater reductions than if Central were to remain independent. We do not believe, therefore, that any adverse economic consequences will flow from our approval of the proposed merger.

Was the Merger Coerced by the Acquiring Utility

As the dominant utility in northern Illinois, Commonwealth obviously was in a position, absent recourse to this agency under Section 202(b) of the Act, to inhibit Central's efforts to secure meaningful interconnections which could enhance its independent status. If we were persuaded that Commonwealth had in fact deprived Central of the opportunity to retain its independence through joint participation with it in the planning and construction of new facilities or of the opportunity to purchase power at a reasonable rate, or unfairly refused to share reserves, we might well conclude that the merger had been forced upon Central by Commonwealth, contrary to the public interest.

The record, however, permits no such conclusion. There is no evidence that Commonwealth ever acted to inhibit Central in its efforts to establish closer relations with other nearby utilities. Moreover, while the direct relationships between Commonwealth and Central over the years, since the latter was established as an independent company whose principal electric division was almost completely surrounded by Commonwealth, hardly demonstrate a pattern of close coordination, there is nothing to indicate that Commonwealth ever refused to cooperate with Central on reasonable terms. On the contrary, the record indicates that until about five years ago Central had little if any interest in establishing more than nominal emergency interconnections with its larger neighbor.

Since about 1961 the relations between the two companies has been considerably closer, with Central permitted to utilize the interconnection to reduce its reserve requirements first to 20 percent and, more recently, to the 12 percent figure Commonwealth itself utilizes. Moreover, when Central approached Commonwealth in 1964 and 1965 to explore the possibility of a long-term firm purchase of bulk power Commonwealth's offer, though not meeting Central's needs, appears to have been a reasonable one under the circumstances. In short, there is nothing in the record to indicate that Commonwealth sought to bring about a situation in which merger was the only acceptable alternative for Central's management through its unwillingness to deal with Central as an independent entity on equitable terms.

The Effect on the Competitive Situation

As part of our analysis we must consider what effect, if any, our approval of a proposed acquisition will have on the existing and future competitive situation in the electric utility industry. Although the general body of antitrust law is relevant to our considerations, it offers only limited guidance on the question presented here. Here we are dealing in the first instance with companies which are not in direct competition with each other in the major arena of their activities, namely, their sales to ultimate consumers. Such sales by Commonwealth and Central are limited to the respective franchised service areas of the two companies. Secondly, we are dealing with two companies which are regulated by the Illinois Commerce Commission and, insofar as they are engaged in interstate sales at wholesale, by this Commission. The circumstances of regulation operates as a powerful constraint on the possible abuse of monopolistic power by public utilities.

In the context of regulated public utilities, the "anti-competitive effect" of a merger requires consideration of at least three different questions: (1) will the merger bring a significant added concentration of economic power? (2) will it eliminate any meaningful competition which may exist, either directly or by example, in attracting new industries to their respective service areas, in making wholesale sales, or in providing economical service? (3) will it have an adverse effect on competing energy sources? On the record in this proceeding we find that each of these inquiries must be answered in the negative.

There is a legitimate public interest in the degree of concentration of economic power in American industries and, notwithstanding the safeguard of regulation, even in the electric utility industry. In this case, however, it does not appear that Commonwealth's merger with its much smaller neighbor will add appreciably to its command of economic power, or relative size with respect to other electric utilities. In 1965 Commonwealth ranked third among 211 Classes A & B private utilities (including combination gas and electric companies) in the United States based on either operating revenues or gross utility plant. This ranking will not be changed by the merger which will increase Commonwealth's operating revenues by about 7 percent, its net income by about 6 percent, and its net utility plant by about 5 percent. As noted above, this relatively modest increase in Commonwealth's size will permit the total integration of its facilities with Central's and promises to bring tangible rate advantages to the customers of both companies.

We do not believe approval of the merger will choke off actual or potential areas of competition between Central and Commonwealth. In this regard the evidence shows, first, that the competing rate structures of each really are only slightly different, and second, even though Central's residential rates have been slightly lower than Commonwealth's, on an overall basis, if Central were to bill under Commonwealth's rates, approximately the same revenue would be yielded. In the industrial sphere Commonwealth's rates are generally lower. Competition, if it were to exist, would be confined to wholesale sales or possibly to inducing new industries to locate within their respective service areas through attractive industrial rates. But Central does not make any wholesale sales and, even were it to remain independent, would probably not be in a position to serve that market for the foreseeable future. Since Commonwealth's industrial rates, as regulated by the Illinois Commission, have been and undoubtedly could be maintained at levels significantly lower than those of Central, the diminution of competition in this sphere does not appear to be real. In fact, Rockford's ability to attract major industry should be enhanced by merger and this undoubtedly is at least a partial explanation of why the City of Rockford has not objected to our approval of the merger proposal.

There is no evidence in this proceeding that the merger will have any adverse effect on any competition which may exist between electric power and other energy sources, such as oil, coal and natural gas within the companies' respective service areas. As part of the merger, Commonwealth will acquire Central's gas properties and, for the immediate future, will continue Central's practice of using excess gas under its firm contract to provide boiler fuel for its steam generators. It is unnecessary at this time to consider whether from a long range point of view the continued operation of these gas properties or this use of natural gas for boiler fuel is in the public interest for, as discussed more fully below, we are conditioning our approval of the merger to retain jurisdiction over the question of Commonwealth's continued operation of these properties for final disposition at a later date.

Effectiveness of Regulation

Impairment of the effectiveness of regulation is one of the abuses to be guarded against in considering whether a merger is consistent with the public interest, just as it is a factor in simplification and acquisition proceedings under the Public Utility Holding Company Act.

In past years mergers and other forms of consolidations have taken place between public utilities operating across state boundaries. Additional instances may well occur in the future. In such circumstances it is conceivable that problems will be presented regarding the proper allocation of the merged power system's total costs among its various consumers and that a consolidation could have the effect of impairing the ability of the several state commissions to regulate effectively the resulting company. However, no such problem is presented in this case. Virtually all the aggregate revenues of the two systems result from rates charged to ultimate consumers in Illinois. The State of Illinois will regulate all the retail rates of the combined Commonwealth system and the retail rates have been fixed and approved by the Illinois Commerce Commission. The record is clear that future state commission regulation will not, as a result of this merger, be hampered by a write-up of the physical assets or by an increase in the total capitalization. Our regulation of Commonwealth's interstate operations will not be adversely affected. Accordingly, we do not believe regulatory effectiveness will be impaired by the merger.

Gas and Noncontiguous Electric Properties

Under the merger, Commonwealth will acquire four noncontiguous electric service areas; additionally, for the first time in over a decade, it will be supplying natural gas to some of its electric customers. Thus, we must determine whether the operation of the merged facilities will be consistent with the public interest insofar as the merged company would own (1) noncontiguous electric properties and (2) both electric and gas properties.

By Section 11(b)(1) of the Public Utility Holding Company Act the operations of a holding company system are to be limited "to a single integrated public-utility," provided, however, that the holding company may be permitted to control one or more additional "integrated public-utility systems" if it is determined that "[e]ach of such additional systems cannot be operated as an independent system without the loss of substantial economies which can be secured by the retention of control by such holding company of such system." Section 11(b)(1)(A). The SEC has held that noncontiguous service areas cannot be retained by an integrated electric utility system unless those areas "are either physically interconnected or are capable of physical interconnection so that, under normal conditions, they may be economically operated as a single interconnected and coordinated system and in other respects meet the definition of an integrated public utility system as applied to electric utility companies set forth in Section 2(a)(29)(A) of the Act." *New England Electric System, et al.*, 38 SEC 193, 199–200. Further, it "has long held that a single 'integrated public-utility system' cannot include both gas and electric properties." *S.E.C.* v. *New England Electric System, et al.*, 384 U.S. 178, n. 7. But that does not mean that a holding company may not control both an integrated electric utility system and an integrated gas utility system. It may if, as noted, the systems cannot be operated independently "without the loss of substantial economies."

The requirements of Part I of the Public Utility Holding Company Act are, of course, not binding upon this Commission in determining what is consistent with the public interest within the meaning of Section 203 of the Federal Power Act and the policies prescribed by the SEC for dealing with holding companies are not necessarily applicable to the same degree in dealing with operating companies. Thus, in *Western Light & Telephone Co., Inc.*, 33 FPC 1147, 1149, we approved a merger of noncontiguous electric companies under circumstances which indicated that the mergers would expedite interconnections beneficial to the public interest. As we made clear in *Western*, however, we believe that the basic congressional policies as to integrated operation embedded in the Holding Company Act are applicable considerations in passing upon proposals for merger of operating companies, and that the burden is upon the applicants to demonstrate why operation of noncontiguous electric territories or combined gas and electric facilities is consistent with the public interest.

It would appear, therefore, that unless Commonwealth is able to demonstrate that the noncontiguous electric service areas to be acquired are capable of interconnection with its system and that its joint operation of gas and electric properties will be beneficial to its customers, divestiture of such properties should be ordered. There is no such showing in this record; Commonwealth has frankly indicated that its plans for operating Central's electric properties outside of the Rockford division are at best tentative [21] and that it has not formulated any plans for Central's gas properties. However, we do not believe that the final determination of the propriety of Commonwealth's continued operation of these facilities need be a condition precedent to the approval of the merger. Both the noncontiguous electrical territories of Central and its ownership of both gas and electric facilities are long standing and would represent but a small part of Commonwealth's business. It is clear that the merger would not be feasible if it did not initially include the transfer of those facilities. Accordingly, we shall retain jurisdiction over the question of Commonwealth's continued operation of the noncontiguous electric service facilities and gas distribution properties for final disposition at a later date. Consistent with the above considerations, Commonwealth will be required to show within three years why it should not be required to divest itself of the control and operation of these properties. Annual reports will be required on the status of its studies.

Utility Users League Motion

On September 23, 1966, the Utility Users League filed a motion seeking dismissal of the merger application or, in the alternative, requesting that a further hearing be set for the taking of additional testimony. Our review of the motion reveals that substantially the same arguments were made against the merger in the brief and reply brief filed earlier by the Utility Users League. We find no basis in the present motion for withholding our authorization of the merger, nor do we find any need for a further hearing to adduce the evidence referred to in the motion. The Examiner afforded the League an adequate opportunity during the hearing to develop all the facts it considered material to our determination of the merger's consistency with the public interest. Insofar as the Utility Users League now seeks to develop evidence in a reopened proceeding on "the possible benefits to the public in the event of public operation and acquisition of Central's properties," there has not even been a suggestion that any public authority has this desire. The motion will be denied.

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[21] The Lincoln area, by far the largest of the noncontiguous electric service areas to be acquired, will soon be bisected by a new 345 kv line currently being constructed by Commonwealth. We agree with staff that, on this basis, the Lincoln area may be "capable of physical interconnection" so that Commonwealth's provision of electric service to the area will be proper under the integrated public utility standard. On the other hand, there is no evidence to show that the remaining three noncontiguous areas (Homer, Bement, and Albion) to be acquired from Central can or ever will be interconnected with Commonwealth's system.

CONCLUSION

The ever-increasing technological breakthroughs in the generation and long distance transmission of electric energy will carry with them marked changes in the patterns of operation and structure of the electric utility industry in this country. From both a cost and a reliability standpoint isolated or virtually independent operation of electric facilities is becoming a luxury which no company can afford if its customers are to secure electric service anywhere nearly equivalent to that provided by systems which, through one form or another of coordination, can better avail themselves of the economies provided by the new technology.

While the emerging patterns will to a large extent depend upon the initiative of the industry, the Federal Power Commission has a threefold role to play. First of all, pursuant to the mandate of Section 202(a) of the Act, it has the obligation to promote coordination in the public interest, an effort best exemplified by the National Power Survey, and the continuing follow-up programs stemming from the Survey. Second, it has been given in Sections 202(b), 205, 206, and 207 of the Act the responsibility of insuring that coordination among independent utilities is undertaken upon just and reasonable and nondiscriminatory terms, fair to both the large and small elements of the industry. Finally, it is empowered to pass upon proposed mergers to insure that they are consistent with the public interest.

In the present case, it is far from clear whether Central, if it had recognized the limitations of its essentially isolated mode of operation earlier or even at a later date had been more desirous of maintaining its independence, could not have achieved most if not all of the benefits of access to the savings of scale it cannot secure by itself. Certainly, it is not surprising that when it approached other companies who had long been engaged in coordinated planning among themselves or with other groups, it found that its immediate needs did not mesh into their plans.

For the reasons stated, we find that the merger proposed in this proceeding, subject to future consideration of the questions of Commonwealth's continued operation of Central's gas and isolated electrical properties, is consistent with the public interest. Coming when it does, the merger will avoid Central's making heavy and long-standing commitments to build what would, in these circumstances, be uneconomic generating facilities.

The Commission further finds:

(1) Commonwealth Edison Company is a corporation organized and existing under the laws of the State of Illinois with its principal office at Chicago, Illinois.

(2) Central Illinois Electric and Gas Company is a corporation organized and existing under the laws of the State of Illinois, with its principal office at Rockford, Illinois.

(3) Commonwealth and Central each own and operate facilities for the transmission and sale at wholesale of electric energy which is transmitted in interstate commerce and consumed outside of the state in which it was generated, all of which facilities are in addition to and do not include facilities

used for the generation of electric energy, facilities used in local distribution or only for the transmission of electric energy in intrastate commerce or facilities for the transmission of electric energy consumed wholly by the transmitter. Commonwealth and Central each is, therefore, a public utility within the meaning of that term as used in Section 203 of the Federal Power Act.

(4) By the proposed transaction, as described above, Commonwealth will acquire and merge or consolidate with its facilities, subject to the jurisdiction of the Federal Power Commission, all of the facilities of Central, another person, within the meaning and subject to the requirements of Section 203 of the Federal Power Act, and Central will dispose of all of its facilities to Commonwealth, another person, within the meaning and subject to the requirements of Section 203 of the Federal Power Act.

(5) For the reasons set forth herein, the proposed acquisition of Central's facilities by Commonwealth, as described above, upon the terms and conditions specified in their application and as further expressed in their evidentiary presentation, and subject to the provisions of this order, will be consistent with the public interest, as expressed in Section 203 of the Act.

The Commission orders:

(A) The proposed acquisition and merger or consolidation of the facilities of Central by Commonwealth, and the proposed disposition of all of its facilities by Central to Commonwealth, referred to above and as described in the application, is hereby authorized and approved upon the terms and conditions set forth in the application, subject to the provisions of this order.

(B) Commonwealth shall record the transaction herein authorized and the facilities and properties referred to above as provided in the Commission's Uniform System of Accounts prescribed for Public Utilities and Licensees.

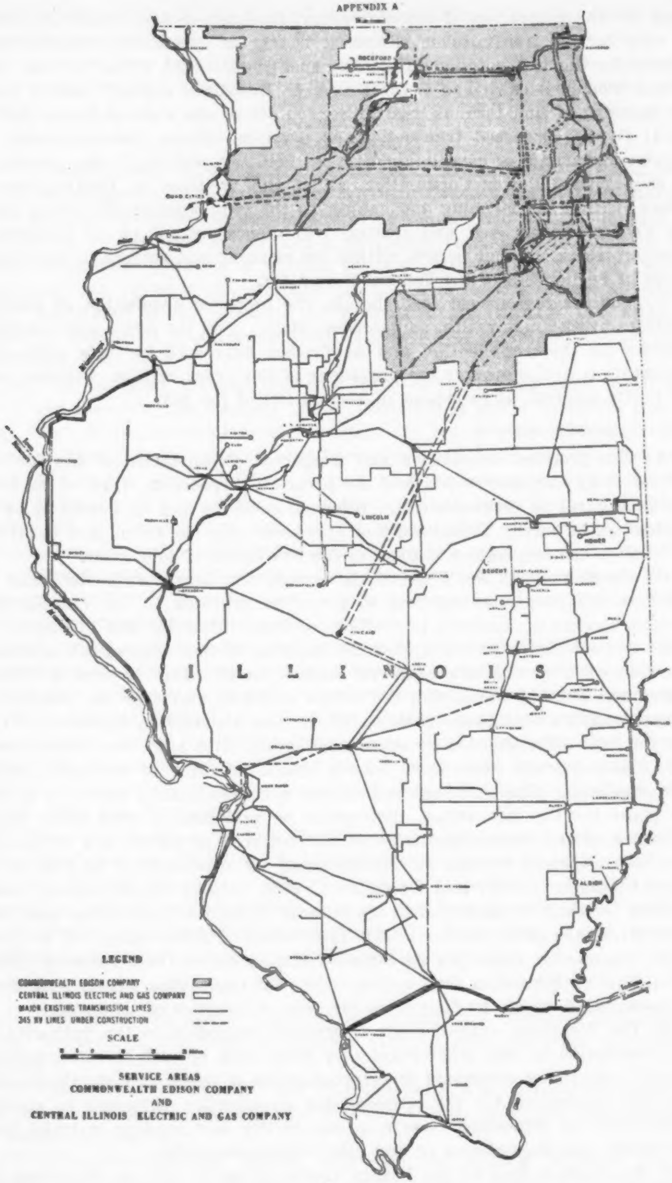
(C) Jurisdiction is retained over the question of Commonwealth's continued operation of Central's downstate divisions; namely, Lincoln and associated Homer and Bement areas, and the Albion division, and over the question of Commonwealth's continued operation of the gas distribution facilities of Central, for final determination by subsequent order. Not later than December 1, 1969, Commonwealth shall show why it should continue to own and operate such properties. The showing shall include a comprehensive report of studies and plans for the integration, disposition or realignment with other power companies of the noncontiguous properties referred to above, and of the gas properties. Interim reports on the status of its studies shall be filed on or before December 1, 1967 and December 1, 1968. Copies of all reports herein provided for shall be submitted to the Illinois Commerce Commission and shall be served on the other parties to this proceeding. Public notice will be given by the Commission regarding its intended disposition of these reserved issues.

(D) This authorization shall expire unless the transaction herein authorized is consummated within 90 days from the date of issuance of this order.

(E) The foregoing authorization is without prejudice to the authority of this Commission or any other regulatory body with respect to rates, service, accounts, valuations, estimates or determinations of costs, and specifically the matter of accounting for the proposed tax equalization payments to governmental bodies in Winnebago county, or any matter now pending or which may come before this Commission or any other regulatory body.

(F) The motion filed by the Utility Users League, *et al.*, on September 23, 1966, is denied.

APPENDIX A


Wisconsin
ROCKFORD
QUAD CITIES
Chicago
LINCOLN
I L L I N O I S
ALBION
LEGEND
COMMONWEALTH EDISON COMPANY ▨
CENTRAL ILLINOIS ELECTRIC AND GAS COMPANY ▭
MAJOR EXISTING TRANSMISSION LINES ——
345 KV LINES UNDER CONSTRUCTION – – –
SCALE
Miles

SERVICE AREAS
COMMONWEALTH EDISON COMPANY
AND
CENTRAL ILLINOIS ELECTRIC AND GAS COMPANY

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

COLUMBIA GULF TRANSMISSION COMPANY, UNITED FUEL GAS COMPANY AND KENTUCKY GAS TRANSMISSION CORPORATION, DOCKET NO. CP67-97; DELTA NATURAL GAS COMPANY, INC. AND KENTUCKY GAS TRANSMISSION CORPORATION, DOCKET NO. CP66-376

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND DISMISSING APPLICATION

(Issued December 5, 1966)

On October 14, 1966, Columbia Gulf Transmission Company (Columbia Gulf), United Fuel Gas Company (United Fuel), and Kentucky Gas Transmission Corporation (Kentucky Gas), collectively referred to as Applicants, filed in Docket No. CP67-97 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities for the transportation and sale for resale of natural gas in interstate commerce, all as more fully set forth in the application.

Specifically, Applicants request the following:

(1) Authorization for Columbia Gulf to construct and operate a main line tap on each of its two transmission lines and a measuring and regulating station, together with all appurtenant facilities, at a point on its main line transmission system near Kingston, Madison County, Kentucky, and to deliver volumes of gas through said facilities directly to Kentucky Gas for the account of United Fuel;

(2) Authorization for United Fuel to establish a new point of delivery to Kentucky Gas;

(3) Authorization for Kentucky Gas to deliver to Delta Natural Gas Company, Inc. (Delta) volumes of natural gas at such new delivery point near Kingston, Madison County, Kentucky, for resale by Delta in the unincorporated communities of Kingston and Terrill, Kentucky, and environs.

These facilities will be constructed, operated and owned by Columbia Gulf.

The total estimated cost of the proposed facilities is $36,595, which cost will be financed from cash on hand.

Columbia Gulf's operations are confined solely to the transportation of gas purchased in the supply areas and owned by United Fuel. Kentucky Gas is the Columbia company selling gas for resale in the Kentucky area and purchases part of its gas supply from United Fuel.

The total estimated annual and peak day volumes of natural gas required by the communities of Kingston and Terrill in the third year of proposed operations are 30,412 and 354 Mcf, respectively.

These volumes of gas will be delivered by Kentucky Gas to Delta under the same Rate Schedule SGS-1 under which Delta presently purchases gas from Kentucky Gas for distribution in other communities. The gas will be used for residential and commercial purposes. Delta has received the approval of the Public Service Commission of Kentucky for the service to the two communities.

In order to implement the instant proposal, Delta will construct a lateral transmission line and distribution system comprising a total of 6.55 miles of 2 and 4-inch pipeline, at an estimated cost of $85,000.

On May 17, 1966, Delta filed in Docket No. CP66-376 an application pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Kentucky Gas to establish physical connection of its facilities with the facilities of Columbia Gulf for the purpose of obtaining a gas supply from United Fuel and establishing a delivery point on or near this point of supply for the purpose of selling and delivering to Delta volumes of natural gas for resale and distribution in the communities of Kingston and Terrill.

By letter dated October 6, 1966, Delta requested Kentucky Gas to establish an additional point of delivery to Delta near Kingston and to furnish Delta with the volumes of gas necessary for Delta to initiate the distribution and retail sale of natural gas in the communities of Kingston and Terrill, Kentucky, and environs.

Pursuant to Delta's request, the instant application was filed and is intended to supplant Delta's application filed in Docket No. CP66-376. The issuance of certificate authorization in the instant proceeding will obviate further consideration by the Commission of the order requested by Delta in its application filed in Docket No. CP66-376.

After due notice, no petition to intervene, notice of intervention or protest has been filed herein.

At a hearing held on December 1, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Columbia Gulf Transmission Company, a Delaware corporation having its principal place of business in New York, New York, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of November 5, 1958, in Docket No. G-15529 (20 FPC 681).

(2) Applicant, United Fuel Gas Company, a West Virginia corporation having its principal place of business in Charleston, West Virginia, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of March 1, 1944, in Docket No. G-341 (4 FPC 534).

(3) Applicant, Kentucky Gas Transmission Corporation, a Delaware corporation having its principal place of business in Charleston, West Virginia, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order issued on October 6, 1958, in Docket No. G-15288 (20 FPC 463).

(4) The facilities hereinbefore described and as more fully described in the application in this proceeding are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof and the transportation and sale of natural gas by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(5) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(6) The construction and operation of the proposed facilities and the transportation and sale of natural gas by Applicants are required by the public convenience and necessity, and a certificate therefor should be issued as hereinafter ordered and conditioned.

(7) Public convenience and necessity require that the certificate hereinafter issued and the rights granted thereunder be conditioned upon Applicants' compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of said Regulations.

(8) The certificate hereinafter issued should be conditioned upon Applicants filing with the Commission appropriate service agreements in accordance with the Commission's Regulations under the Natural Gas Act.

(9) The application filed by Delta Natural Gas Company Inc., in Docket No. CP66-376 should be dismissed as moot.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicants authorizing the construction and operation of the facilities and the transportation and sale of natural gas as hereinbefore described and as more fully set forth in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicants' compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be completed and placed in actual operation and transportation and sale of natural gas authorized in paragraph (A) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act within one year from the date of this order.

(D) The certificate issued by paragraph (A) above is conditioned upon Applicant's filing with the Commission appropriate service agreements in accordance with the Commission's Regulations under the Natural Gas Act.

(E) The application filed by Delta Natural Gas Company Inc., in Docket No. CP66-376 is dismissed as moot.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

GEORGIA POWER COMPANY, DOCKET NO. E-7288

SUPPLEMENTAL ORDER PROVIDING FOR MAINTENANCE OF TEMPORARY INTERCONNECTION AND SERVICE

(Issued December 5, 1966)

On April 22, 1966, 35 FPC 629, we issued an order in this docket directing an immediate temporary emergency interconnection and service by Georgia Power Company (Georgia Power) to Crisp County Power Commission (Crisp County). By telegram of April 29, 1966, Georgia Power notified the Commission that service had been initiated. Today we are issuing a tentative decision in Docket No. E-7120, which would provide for a long-term interconnection between these parties.

Information in the Commission's files indicates that the capacity of the temporary interconnection, while adequate at present to serve Crisp County's emergency needs, may not be adequate to supply Crisp County with sufficient power to avoid interruptions in service to its customers during the period when the parties and the Commission are giving further consideration to the Commission's tentative decision in Docket No. E-7120. It is therefore necessary in the public interest and for the purposes of Section 202(c) of the Federal Power Act that Georgia Power and Crisp County be directed to take such steps as are required to provide interconnection facilities of a minimum capacity of 6000 kw, in order to avoid service interruptions in the event of outages of generating or transmission facilities.

The Commission orders:

(A) Georgia Power and Crisp County shall make provision for an increase in the capacity of their temporary interconnection to a minimum of 6000 kw either by reactivating their former 44 kw interconnection at Cordele, Georgia, by increasing the capacity of the existing 44 kv connection with Georgia Power's Flint River circuit or by such other means as they may deem to be appropriate.

(B) Georgia Power and Crisp County shall, within 30 days from the date of this order, inform the Commission of their plans for increasing the capacity of their interconnection facilities.

(C) When the capacity of the interconnection facilities has been increased as directed in this order, Georgia Power and Crisp County shall inform the Commission of the amount of capacity available for emergency use, the manner in which it has been provided, and any terms and conditions for the temporary emergency service agreed upon by Georgia Power and Crisp County. If no agreement is reached, the temporary interconnection and service shall be subject to such terms and conditions as may be fixed by supplemental order of the Commission pursuant to Section 202(c) of the Federal Power Act.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

ILLINOIS POWER COMPANY AND MICHIGAN WISCONSIN PIPE LINE COMPANY, DOCKET NO. CP67-86

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued December 5, 1966)

On September 29, 1966, Illinois Power Company (Applicant), filed in Docket No. CP67-86 an application pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Michigan Wisconsin Pipe Line Company (Respondent) to establish physical connection of its transmission facilities with Applicant's proposed new distribution system and to sell and deliver to Applicant volumes of natural gas for resale and distribution, all as more fully set forth in the application.

Applicant requests that Respondent make physical connection in Mercer County, Illinois, of its transmission facilities with the distribution system proposed to be built by Applicant to serve the unincorporated communities of Gilchrist, Wanlock, and Shale City and environs, Mercer County, Illinois. Applicant also requests that Respondent construct a sales station to serve this connection, and to sell and deliver volumes of natural gas for resale in the above mentioned areas.

The estimated third year annual peak day requirements for this service is 6,250 Mcf and 61.0 Mcf, respectively.

Applicant has obtained all necessary franchises to supply natural gas in said communities and on December 22, 1965, the Illinois Commerce Commission in its Docket No. 51865 granted Applicant a certificate to construct and operate the necessary facilities and to sell gas therein.

On November 7, 1966, Michigan Wisconsin filed an answer to the application and stated therein it had no objection to the entry of an order requiring it to establish connection of its facilities and provide the requested service.

Due notice of the filing of the application and opportunity for hearing thereon has been given by publication in the Federal Register on October 13, 1966, (31 F.R. 13255). No protest, petition to intervene or request for hearing has been filed in this proceeding.

The Commission finds:

(1) Michigan Wisconsin Pipe Line Company, a Delaware corporation having its principal place of business in Detroit, Michigan, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order dated November 30, 1946, in Docket No. G–699.

(2) Applicant, Illinois Power Company, an Illinois corporation having its principal place of business in Monticello, Illinois, is a corporation legally authorized to engage in the local distribution of natural gas to the public within the meaning of Section 7(a) of the Natural Gas Act.

(3) It is necessary and desirable in the public interest to direct Michigan Wisconsin to sell and deliver to Applicant, under a service agreement to be executed by Applicant with Michigan Wisconsin in accordance with the Commission's Regulations, up to 61 Mcf for Gilchrist, Wanlock and Shale City, and environs in Mercer County, Illinois on a maximum day for distribution and resale as hereinbefore described.

(4) Applicant should be prepared to receive natural gas from Michigan Wisconsin for distribution in the named communities, and their environs, within one year from the date of the issuance of this order.

The Commission orders:

(A) Michigan Wisconsin Pipe Line Company is directed to establish physical connection of its facilities with the facilities proposed to be constructed and operated by Applicant and to sell and deliver to Applicant up to 61 Mcf on a maximum day under a superseding service agreement to be executed by Applicant with Michigan Wisconsin in accordance with the Commission's Regulations, for transportation, distribution and resale as hereinbefore described and as more fully described in this proceeding, upon the terms and conditions of this order. Such service shall be rendered pursuant to Michigan Wisconsin's presently filed appropriate rate schedule.

(B) Michigan Wisconsin shall report to the Commission the date of commencement of service to Applicant within 10 days after such service begins.

(C) Applicant shall be prepared to receive service as directed herein one year from the date of issuance of this order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

PAN AMERICAN PETROLEUM CORPORATION, DOCKET NO. G-9279, ET AL.

DECLARATORY ORDER

(Issued December 5, 1966)

On April 13, 1966, 35 FPC 502, the Commission issued an order approving a rate settlement proposal filed by Pan American Petroleum Corporation (Pan American) on January 24, 1966, encompassing the rates for 257 of its currently effective FPC Gas Rate Schedules. Ordering Paragraph (D) of that order required Pan American to "compute the difference between the rates collected subject to refund and the related settlement rates or rate not subject to refund, whichever rate is the greater, for the period from July 1, 1962, to the date of the order, with interest as specified in each docket to January 1, 1966." Ordering Paragraph (E) required Pan American to retain such refund amounts, with certain exceptions, pending further action of the Commission.

On September 6, 1966, Pan American filed a petition for a declaratory order stating that a controversy existed between it and one of its purchasers, United Fuel Gas Company (United Fuel), concerning the amount of refunds due and owing to United Fuel under the settlement order. The controversy concerns amounts payable to United Fuel under Pan American's FPC Gas Rate Schedule Nos. 78, 173, 174, 190 and 384 for sales of natural gas in the State of Louisiana. All of the sales were covered by the general rate settlement and resolution of the dispute depends upon the interpretation of the April 13 settlement order and several prior Commission orders permitting certain tax changes to become effective.

The salient facts concerning the controversy, which involve refunds of $1,133,236.04 (inclusive of interest), are best illustrated by reference to Pan American's FPC Gas Rate Schedule No. 173. The other rate schedules involved here have essentially the same factual pattern, and therefore our decision as to the controversy surrounding Pan American's FPC Gas Rate Schedule No. 173 is equally applicable to the other rate schedules.

The firm rate under FPC Gas Rate Schedule No. 173 was 17.5¢, inclusive of 1¢ tax reimbursement which related to the then existing state gathering tax. Periodic increased rates of 17.9¢, 18.3¢, 18.7¢ and 19.1¢, each of which included 1¢ tax reimbursement, were suspended and thereafter placed in effect subject to refund. Due to a 1¢ increase in the state gathering tax, Pan American then filed for a tax reimbursement increase of 0.75¢ per Mcf from 19.1¢ to 19.85¢ (for a total tax reimbursement of 1.75¢) to be effective as of August 1, 1958. In view of challenges to the constitutionality of the additional gathering tax the increase was suspended in Docket No. G-15780 for one day and then became effective subject to refund. (Order No. 206, 20 FPC 28). All sums collected in Docket No. G-15780 above 19.1¢ were refunded in accordance with the Commission order issued March 5, 1962, in *Texaco Inc., et al.*, Docket No. G-15546, *et al.*, 27 FPC 441, following a state court ruling declaring the gathering tax to be unconstitutional.

Subsequent to these filings the State of Louisiana increased the gas severance tax and eliminated the gathering tax effective as of December 1, 1958. Pan American filed for a tax increase of 0.5¢ from 19.1¢ to 19.6¢ (the 19.6¢ rate included 1.5¢ tax reimbursement). The 19.6¢ filing actually reflected a decrease in the previously filed increased rate of 19.85¢ per Mcf which was then in effect subject to refund in Docket No. G–15780 as well as a decrease in total tax reimbursement from 1.75¢ to 1.5¢ per Mcf. In connection with the 19.6¢ filing the Commission issued an order in Docket No. G–14730[1] on February 26, 1959 allowing the new rate of 19.6¢ (0.5¢ *more* than the underlying rate in Docket No. G–14730 but 0.25¢ *less* than Pan American had been charging under the rate in Docket No. G–15780) to become effective as of December 1, 1958. The Commission stated that the rate change in no way modified, amended or changed the suspension proceeding involving Docket No. G–14730.

Pan American later filed for periodic increased rates of 20¢, 20.4¢, 20.8¢, 21.2¢ and 21.6¢, each of which included 1.5¢ tax reimbursement, that were suspended and thereafter placed in effect subject to refund. Pan American's settlement rate of 18.375¢ is below the 19.6¢ increased rate filing made by Pan American to increase the tax reimbursement from 1¢ to 1.5.¢ Pan American proposes to refund all amounts collected from the 18.375¢ settlement rate to 19.1¢ and all amounts above 19.6¢, but does not propose to refund those amounts collected from 19.1¢ to 19.6¢. United Fuel claims the amounts from 19.1¢ to 19.6¢ should also be refunded.

Pan American contends that the Commission in accepting its 0.5¢ per Mcf tax reimbursement increase did not impose any refund obligation with respect to the increased rate filing which included this additional tax reimbursement. Consequently, it avers the monies it charged and collected from United Fuel at the 19.6¢ increased rate level relating to the 0.5¢ tax reimbursement were not collected subject to refund, and therefore under the terms of the Commission's settlement order it is not required to refund such amounts.

In its response to Pan American's petition United Fuel points out that assuming the settlement rate included tax reimbursement of 1.5¢ per Mcf, adoption of Pan American's position would allow it to collect 2¢ tax reimbursement (the 1.5¢ tax reimbursement expressly made part of the settlement rate plus the 0.5¢ tax reimbursement collected between the settlement rate and the rate in effect subject to refund).

After the enactment of the additional severance tax and the concurrent elimination of the gathering tax by the State of Louisiana, the Commission modified its rules and regulations to permit abbreviated rate change filings reflecting these tax changes and waived the 30 day notice requirement of Section 4(d) of the Natural Gas Act so that the rate changes could be made effective as of December 1, 1958. (Order No. 210, 20 FPC 785). Consistent with that waiver, it permitted Pan American's tax change filing to become effective as of December 1, 1958, but provided that its action would not in any way affect the suspension proceeding in Docket No. G–14730 involving Pan American's then latest periodic rate increase filing.[2] It does not follow, however, as Pan American contends, that the acceptance order authorized the collection of the 0.5¢ tax increase over and beyond any figure the Commission might determine upon, or settle at, in Docket No. G–14730. On the contrary, the only reasonable interpretation of this order, we believe, is that the Commission's action effectuated for refund purposes an increase in the last firm rate of 17.5¢ by the amount of the 0.5¢ tax increase, which was treated as a known cost, while continuing Pan American's existing refund obligation at the increased rate level of 19.6¢. Pan American thus retained the same refund obligation in Docket No. G-14730 it had prior to its tax increase filing. The only difference is that after the acceptance of the tax increase both the underlying firm rate base and the rate being collected was increased 0.5¢ (to 18.0¢ and 19.6¢ respectively).

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[1] Docket No. G–14730 involved the latest periodic increase (from 18.7¢ to 19.1¢) then in effect subject to refund.

[2] The order was issued in Docket No. G–14730, in lieu of Docket No. G–15780, because the only question presented in Docket No. G–15780 was the contractual issue involved in the validity of the additional gathering tax.

Our interpretation is consistent with Pan American's settlement proposal as well as our order approving such settlement. Pan American shows the 0.5¢ severance tax increase as a part of the "Last Firm Rate" in the exhibits appended to its offer.[3] The appendices to our order of April 13, 1966, did likewise.

Accordingly, we find Pan American's interpretation to be incorrect and conclude that it is required to make refunds under the April 13 settlement order of the disputed amounts involved here. As previously indicated, our decision is applicable to all of the rate schedules in dispute, even though we have specifically referred only to Pan American's FPC Gas Rate Schedule No. 173.

The Commission orders:

For the reasons set forth above, the refund monies of $1,133,236.04 (inclusive of interest) charged and collected by Pan American pursuant to the subject rate schedules during the refund period set forth in the order issued herein on April 13, 1966, in addition to other refund monies, are properly due and owing to United Fuel, and are to be retained by Pan American in accordance with ordering Paragraphs (E), (F) or (G) of said order.

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[3] Pan American thus shows the last firm rate under its FPC Gas Rate Schedule No. 173 to be 18¢, inclusive of tax reimbursement. Prior to the tax increase filing, the last firm rate was 17.5¢. It is clear therefore that in its settlement proposal Pan American treated the 0.5¢ tax increase as part of the last firm rate. Under Pan American's present position the last firm rate would be 17.5¢, not 18¢ as reflected in its proposal.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

PIPELINE PRODUCTION AREA RATE PROCEEDING, DOCKET NO. RP66-24

ORDER DENYING PETITION FOR PHASE I RULE-MAKING PROCEDURE

(Issued December 5, 1966)

On October 12, 1966, thirteen interstate pipeline companies styling themselves the "Pipeline Production Group"[1] filed a petition requesting that the Commission decide the issues presented in Phase I[2] of the above-captioned proceeding solely on the basis of written comments and oral argument presented in a rule-making proceeding. These issues are now slated to be tried on the basis of a formal evidentiary record and to be decided in the light of the facts thereby developed in accordance with the normal procedures governing adjudication. Petitioners' contemplate that the present evidentiary proceeding involving data questionnaire responses, hearing and decision by the Presiding Examiner would be redirected to the Phase II issues, and that such supplemental data as might be required for full resolution of those issues would also be collected.

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[1] The "Pipeline Production Group" consists of Colorado Interstate Gas Company, Humble Gas (Transmission Company, Kansas-Nebraska Natural Gas Company, Inc., Lone Star Gas Company, Natural Gas Pipeline Company of America, Northern Natural Gas Company, The Ohio Fuel Gas Company, Panhandle Eastern Pipe Line Company, Preston Oil Company, Southern Natural Gas Company, Texas Gas Transmission Corporation, Transcontinental Gas Pipe Line Corporation, Trunkline Gas Company, and United Gas Pipe Line Company.

[2] Phase I encompasses all issues related to whether pipeline-produced and self-consumed gas on leases acquired after the date of any final Commission policy determination on such issues should be priced on an area basis and, if so, the exact nature of such area rate. (See Order Severing Proceedings and Prescribing Procedures, issued April 13, 1966, 35 FPC 497).

Petitioners also ask that if the decision in Phase I holds that area rates are appropriate for pipeline and affiliate produced gas, such decision be made effective as of January 1, 1961 or at least as of June 29, 1964.

Statements in support of the petitioners' position were filed by the subsidiaries of the Columbia Gas System;[3] Consolidated Gas Supply Corporation and Union Producing Company. Responses filed by Tennessee Gas Pipeline Company, a Division of Tenneco Inc., and El Paso Natural Gas Company do not object to petitioners' proposal to convert Phase I from an adjudicatory to a rule-making proceeding but request that the Commission's Phase I decision be applied prospectively only.

The Municipal Gas Group;[4] the California Public Utilities Commission; San Diego Gas and Electric Company; Pacific Lighting Service and Supply Company, Southern California Gas Company, and Southern Counties Gas Company of California; Pacific Gas and Electric Company and a number of independent producers,[5] oppose petitioners' request that the Phase I issues be decided without the benefit of any evidentiary record or the facts to be elicited by Staff's data questionnaire and the information requested by other parties. The Commission Staff, who also oppose petitioners' request, suggests that informal rule-making rather than adjudicatory procedures may well be appropriate for eventually resolving the Phase I issues, also opposes their resolution in the absence of the further factual data to be supplied. Petitioners filed a response expressing their opposition to the Staff's proposal that the Phase I issues be decided through informal rule-making procedures, but upon the basis of the comprehensive factual data now being gathered in this proceeding, contending that if the Commission considers those facts in reaching a decision, they are entitled to evidentiary hearings.

We cannot subscribe to petitioners' view that all of the issues in Phase I can be summarily decided without the aid of the factual material now being collected pursuant to the data handling procedures established by the parties and the Examiner. We have made clear that in this important and complex case a comprehensive factual framework is essential to an appropriate resolution of the specific issues determined by the Examiner to be relevant and material to the first phase of this proceeding.[6] Apart from the fact that petitioners' proposal is generalized and vague and does not define the scope or contents of an appropriate notice of proposed rule-making or outline the specific procedures thereafter to be followed, it comes at a stage when the data collecting and trial procedures in this proceeding are fully crystallized.

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[3] Atlantic Seaboard Corporation, Cumberland & Allegheny Gas Company, Kentucky Gas Transmission Corporation, The Manufacturers Light and Heat Company, Ohio Fuel Company, United Fuel Gas Company, and Preston Oil Company.

[4] American Public Gas Association, the City of Chicago, the City and County of Denver, and the Memphis Light, Gas and Water Division.

[5] Texaco Inc., Pan American Petroleum Corporation, Gulf Oil Corporation, Mobil Oil Corporation, The Superior Oil Company, Sinclair Oil & Gas Company, Marathon Oil Company, Amerada Petroleum Corporation, and Warren Petroleum Corporation.

[6] Order Severing Proceedings and Prescribing Procedures, issued April 13, 1966, *supra*, page 498 and Order Denying Applications, issued June 16, 1966, 35 FPC at page 1033.

For these reasons, we reject petitioners' proposal for the use of informal rule-making procedures in Phase I of this proceeding unsupported by the data now being gathered and to be made available after compositing (along with other factual material which any of the parties can demonstrate is material) as the factual background upon which our decision is to rest. We again emphasize, however, our desire that the Presiding Examiner and all parties to this proceeding shall take all feasible steps to expedite this proceeding to the maximum extent consistent with the necessity for developing comprehensive factual data on all Phase I issues.

In denying petitioners' request that Phase I be decided solely on the basis of the opinions and arguments of the parties, we are not making any ruling on the propriety or desirability of Staff's proposal for rule-making based upon facts. In our view, it is neither feasible nor prudent to evaluate whether such legislative hearings or adversary type hearings will best be suited to the efficient and expeditious disposition of Phase I until the questionnaire facts have been compiled and distributed to the parties for their consideration. At that time, we should expect the hearing examiner to convoke a hearing conference to consider *inter alia* whether any factual dispute warranting further evidentiary hearing is presented and it would be appropriate for any party, including Staff, on the basis of the determinations at such conference to put forward for our consideration any concrete plan for proceeding to resolve any substantive issues by rule-making it may think appropriate.

We also reject petitioners' further suggestion that the scope of Phase I be enlarged to include gas produced from existing leaseholds. The request for such relief is premature since Phase II clearly includes the issue of whether such gas should be priced on an area rate basis and, moreover, petitioner ignores the fact that the issues concerning the pricing of presently dedicated reserves are materially different from those relating to the regulatory treatment of regulating future reserves. As we stated in our Motion to Dismiss, filed in *Colorado Gas Co.* v. *F.P.C.*, CA10 No. 8892:

> * * * The cost of presently dedicated reserves is already in part included in the pipeline producers' cost of service upon which their rates are currently regulated; exploration and development costs and the costs of dry holes are expensed; successful wells are capitalized and included in the rate base on which the pipeline receives a return. In this respect already dedicated reserves present problems quite different from future acquisitions * * *

Consequently, petitioners' suggestion to try Phase II issues in Phase I would necessarily broaden the scope of that initial phase and, inevitably, delay a final decision therein.

The Commission orders:

The petition of the thirteen interstate pipeline companies, filed on October 12, 1966, seeking to substitute informal rule-making procedures not involving the development of additional factual material in Phase I and an earlier date for applying the results of that initial phase be and it hereby is denied.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

SACRAMENTO MUNICIPAL UTILITY DISTRICT, PROJECT NO. 2101

ORDER APPROVING REVISED PROJECT EXHIBIT L DRAWING

(Issued December 5, 1966)

On August 3, 1966, Sacramento Municipal Utility District, licensee for Upper American River Project No. 2101, filed for Commission approval revised Exhibit L drawings relating to the Camino and White Rock developments of the project located on upper Rubicon River and South Fork American River and tributaries, California.

The revised Exhibit L drawing for the Camino penstock show the "as constructed" Camino penstock with minor changes in elevation and alignment of the penstock shown on the license Exhibit L drawings. The revised Exhibit L drawing for the White Rock powerhouse, relate to its design as presently being constructed and show: (1) the addition of a training wall designed to protect the powerhouse against flood flows and to confine the river's encroachment on the powerhouse to the tailrace only; and (2) a lower turbine setting at elevation 990 feet, or 25 feet lower than as initially proposed. The lower setting is to accommodate the normal and minimum tailwater elevations of 996.5 feet and 990.0 feet, respectively.

The Commission finds:

The following described revised Exhibit L drawings conform to the Commission's rules and regulations and should be approved as part of the license for the project, and the license Exhibit L drawings described in this finding as being superseded should be eliminated from the license:

Exhibit	FPC No.	Showing Camino Penstock	Superseding FPC No.
L-135, sheet 1	2101-231	Plan and profile	2101-112
L-136, sheet 2	2101-232	do	2101-113
WHITE ROCK POWERHOUSE			
L-137	2101-233	Site plan	2101-127
L-138	2101-234	Plan—Generator floor	
L-139	2101-235	Plan—Turbine floor	
L-140	2101-236	Plan—Distributor centerline	
L-141	2101-237	Transverse sections	2101-127

The Commission orders:

The revised Exhibit L drawings described in the above finding are hereby approved as part of the license for Project No. 2101, and the superseded license Exhibit L drawings described in the same finding are hereby eliminated from the license for the project.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

TEXAS EASTERN TRANSMISSION CORPORATION, DOCKET NOS. CP61–203 AND CP54–5

FINDINGS AND ORDER FURTHER AMENDING ORDERS ISSUING CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND ACCEPTING SERVICE AGREEMENTS FOR FILING

(Issued December 5, 1966)

On October 4, 1966, Texas Eastern Transmission Corporation (Texas Eastern) filed in Docket Nos. CP61–203 and CP64–5 a motion to amend further the Commission's orders issued December 17, 1962, 28 FPC 1035, and December 19, 1963, 30 FPC 1559, in Docket Nos. CP61–203 and CP64–5, respectively, to reallocate the presently authorized sales of natural gas to the City of Grayville, Illinois (Grayville) in the total amount of 6,419 Mcf per day so as to authorize Texas Eastern to sell 1,647 Mcf of gas per day to Grayville and 4,772 Mcf per day to Mt. Carmel Public Utilities Company (Mt. Carmel), all as more fully set forth in the motion to amend further in these proceedings.

The order of December 17, 1962, authorized Texas Eastern to increase the quantities of gas sold to Grayville so that the latter would be able to initiate natural gas service to Mt. Carmel. The order of December 19, 1963, further increased the allocation of natural gas to Grayville to meet the requirements of Grayville and Mt. Carmel. Presently, Texas Eastern is authorized to sell a total of 6,419 Mcf of gas per day to Grayville to meet the latter's and Mt. Carmel's requirements.

Texas Eastern states that the subject motion is being filed at the request of Grayville and Mt. Carmel so that they, as low load factor customers, may continue to purchase natural gas under Texas Eastern's FPC Gas Rate Schedule SGS–B at the lowest cost. No new facilities will be required for the subject proposal since gas to be sold to Mt. Carmel will be delivered at the existing delivery point to Grayville and Grayville will continue to transport the gas to Mt. Carmel.

Concurrently with the filing of the subject motion, Texas Eastern tendered for filing service agreements with Grayville and Mt. Carmel dated September 22, 1966, and September 12, 1966, respectively.

Due notice of the filing of the motion to amend further and opportunity for hearing thereon has been given by publication in the Federal Register on October 15, 1966 (31 F.R. 13400). No protest or petition to intervene has been filed in this proceeding.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's orders issued December 17, 1962, and December 19, 1963, in Docket Nos. CP61–203 and CP64–5, respectively, be further amended as hereinafter ordered.

The Commission orders:

(A) The Commission's order issued December 17, 1962, and December 19, 1963, in Docket Nos. CP61–203 and CP64–5, respectively, are further amended to reallocate the presently authorized sales of natural gas to Grayville in the total amount of 6,419 Mcf per day so as to authorize Texas Eastern to sell 1,647 Mcf of gas per day to Grayville and 4,772 Mcf per day to Mt. Carmel, all as hereinbefore described and as set forth in the subject motion to amend further.

(B) Texas Eastern's service agreements with Grayville and Mt. Carmel, dated September 22, 1966, and September 12, 1966, respectively, covering the subject proposal, are accepted for filing to become effective on the date this order issues.

(C) In all other respects the orders of December 17, 1962, and December 19, 1963, as amended, shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

TEXAS EASTERN TRANSMISSION CORPORATION, DOCKET NO. RP66-12

ORDER REJECTING SETTLEMENT OFFER

(Issued December 5, 1966)*

As a result of actions taken at various times in 1964 and 1965, the United Gas Pipe Line Company and the Humble Oil & Refining Company have been directed to refund excessive rates which each of those companies previously had collected. However, we have ordered retention of those funds until such time as we can determine "equitable entitlement" thereto. Texas Eastern Transmission Corporation, a customer of United, claims an absolute right to that portion of the refund which represents excessive payments which it made. Following an unsuccessful endeavor to convince the Fifth Circuit of the illegality of the retention order,[1] Texas Eastern has endeavored to establish its right to the refund. The hearing has been concluded; briefing time, however, has been stayed pending our consideration of Texas Eastern's settlement offer.

Under the settlement offer there would be released to Texas Eastern all refunds attributable to its pre-June 1, 1965 purchases, excluding those resulting from its Rayne Field lease transaction.[2] Texas Eastern would, in turn, flow through 69 percent of the refund to its jurisdictional customers. We are advised that each of the pipeline customers of Texas Eastern has agreed to flow through 100 percent of the refund which they would receive. The individual customer refund would be computed by multiplying the annual refund per Mcf (obtained by dividing the total refund for each year by the total sales responsible for that fund) by the customer's total annual purchase. A substantial number of Texas Eastern's jurisdictional customers have urged acceptance of the settlement. The Philadelphia Electric Company, a direct customer of Texas Eastern and the California Commission, parties to this proceeding, have urged rejection of the settlement. After careful consideration of the settlement we agree that the public interest would be benefited by its rejection.

In reaching the conclusion that this settlement should be rejected, we are not unmindful of the value of the settlement route. Where, for example, principles are established and the only question presented relates to the application of those principles to a particular factual setting, the settlement approach often will benefit all parties to the proceeding, including the ultimate consumer. And it may also sometimes be appropriate to approve an over-all settlement of a major complex rate case even though some relatively novel specific issues are involved.[8] But here we have a proceeding of general importance involving a novel issue of law and policy. The question of whether the Commission, in its disposition of rate refunds under Section 4(e) of the Natural Gas Act, may employ the doctrine of "equitable entitlement" and require, where appropriate, complete flow-through in the absence of a settlement agreement fixing that obligation, has not previously been settled. Indeed, Texas Eastern, notwithstanding its tender of the settlement offer, is unwilling to accept that construction of the Commission's authority, as are at least some of its pipeline customers who have urged approval of the settlement. Therefore, acceptance of this settlement would settle nothing; it would provide no guidance regarding the additional $20 million (exclusive of the $10 million at issue here) presently awaiting disposition pursuant to Commission action as the result of outstanding refund obligations.

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*Reconsideration denied by order issued February 13, 1967, 37 FPC 306.

[1] *Texas Eastern Transmission Corp.* v. *F.P.C.*, 357 F. 2d 232 (CA5).

[2] The settlement would not affect that transaction.

The Commission finds:

That the public interest would be furthered by the rejection of the settlement proposal and by having the Examiner pass on the issues now before him.

The Commission orders:

(A) That the settlement offer certified to us by the Examiner is rejected.

(B) That the briefing schedule prescribed by the Examiner should commence upon issuance of this order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

UTAH POWER & LIGHT COMPANY, PROJECT NO. 1744

ORDER APPROVING REVISED PROJECT EXHIBIT M

(Issued December 5, 1966)

On September 12, 1966, Utah Power & Light Company, licensee for major Project No. 1744, filed application for Commission approval of a revised Exhibit M for the Weber Project No. 1744 on the Weber River in Weber, Davis, and Morgan Counties, Utah, and affecting lands of the United States within the Wasatch National Forest.

The filing is pursuant to Article 29 of the license to show and describe the relocated portion of the Farmington-Weber transmission line, which was rerouted and is carried by the supporting structures of the Riverdale-Weber-Devil's Slide transmission line, and the new 7.2 kv plant service line from Gateway, all of which was made necessary because of highway construction in the area. The filing also describes the conductor cables and insulators rehung on the Riverdale-Weber-Devil's Slide transmission line to carry the relocated Farmington-Weber line and the relocated telephone line as parts of the project.

The Commission finds:

The revised Exhibit M, entitled "General Descriptions and General Specifications of the Mechanical, Electrical, and Transmission Equipment", which sup-

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[8] In such cases where a particular issue has general precedential value we have frequently carved it out of a settlement, reserving it for subsequent adjudication. See *e.g., Cities Service Gas Company*, 25 FPC 582, 30 FPC 158 (reserving and then deciding the consolidated tax issue).

plements license Exhibit M, conforms to the Commission's rules and regulations and should be approved as part of the license for the project.

The Commission orders:

The revised Exhibit M described in the above finding is hereby approved as part of the license for Project No. 1744.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

VICI PUBLIC WORKS AUTHORITY AND PANHANDLE EASTERN PIPE LINE COMPANY, DOCKET NO. CP66–411

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued December 5, 1966)

On June 13, 1966, the Vici Public Works Authority, (Applicant) filed in Docket No. CP66–411 an application, and a supplement thereto on September 7, 1966, pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Panhandle Eastern Pipe Line Company (Respondent) to establish physical connection of its natural gas transmission facilities with the facilities proposed to be constructed by Applicant, and to sell and deliver natural gas to Applicant for resale and distribution in the Town of Vici, Oklahoma, all as more fully set forth in the application, as supplemented.

Applicant proposes that Respondent construct a tap at a point on its transmission line approximately 5,300 feet south of the Town of Vici, Dewey County, Oklahoma, and provide a regulation station at such point where said town would connect its transmission line.

Applicant proposes to install a 3-inch transmission pipeline extending 5,300 feet from Respondent's transmission pipeline to the southern limits of the Town of Vici. Applicant further proposes to construct a natural gas distribution system and appurtenances in the Town of Vici. Applicant states that the proposed transmission and distribution facilities will be owned and operated by the Town of Vici.

The total estimated volumes of natural gas involved to meet Applicant's annual and peak day requirements for the initial three year period of proposed operations are stated to be:

	First year	Second year	Third year
Annual (Mcf)	39,047	44,702	49,826
Peak day (Mcf)	711	805	902

The total estimated cost of Applicant's proposed construction is $105,144.000, which cost will be financed through the issuance of revenue bonds.

On June 17, 1966, Respondent was duly advised of the application filed in this proceeding, and due notice of the filing and opportunity for hearing thereon has been given by publication in the Federal Register on June 25, 1966 (31 F.R. 8896). No protest, petition to intervene or request for hearing has been filed in this proceeding.

The Commission finds:

(1) Panhandle Eastern Pipe Line Company, a Delaware corporation having its principal place of business in Kansas City, Missouri, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of October 17, 1945, in Docket No. G-254 (4 FPC 1081).

(2) Applicant is legally authorized to engage in the local distribution of natural gas to the public within the meaning of Section 7(a) of the Natural Gas Act.

(3) It is necessary and desirable in the public interest to direct Respondent to establish physical connection of its transmission facilities with the facilities proposed to be constructed and operated by Applicant, and to sell and deliver to Applicant under a service agreement to be executed by Applicant with Respondent in accordance with the Commission's Regulations, up to 902 Mcf per day of natural gas for distribution and resale as hereinbefore described and as more fully described in the application in this proceeding.

(4) The requirement that Respondent serve Applicant as hereinafter ordered, will not impair Respondent's ability to render adequate service to its existing customers.

(5) Applicant should be prepared to receive natural gas from Respondent for distribution in the Town of Vici, Oklahoma, and environs, within one-year from the date of issuance of this order.

The Commission orders:

(A) Panhandle Eastern Pipe Line Company is directed to establish physical connection of its facilities with the facilities proposed to be constructed and operated by Applicant and to sell and deliver up to 902 Mcf of natural gas daily to Applicant for resale in Vici, Oklahoma all as hereinbefore described and as more fully described in the application in this proceeding.

(B) Respondent shall revise the availability and Btu provisions of its SG 3 Rate Schedule so as to encompass sales and deliveries to Applicant, and render service thereto in accordance therewith.

(C) Respondent shall file, pursuant to part 154 of the Regulations under the Natural Gas Act, an executed service agreement with Applicant.

(D) Respondent shall report to the Commission in writing the date of commencement of service to Applicant within 10 days after such service begins.

(E) Applicant shall be prepared to received service as directed, herein, within one year from the date of issuance of this order.

OPINION NO. 501-A

AMERADA PETROLEUM CORPORATION, ET AL., DOCKET NO. CI62-1544, ET AL.

MEMORANDUM OPINION AND ORDER CONFIRMING ORDER REQUIRING REFUNDS AND DENYING MOTIONS FOR STAY

(Issued December 6, 1966)

Syllabus

1. Commission *reaffirms Hawkins* holding that from time view of law was enunciated by Court on January 23, 1964, "every producer either knew or should

have known that refunds might be required of excess amounts collected under temporary certificates, even though these certificates contained no explicit refund conditions." P. 964.

2. Parties are not being held responsible for refunds on basis of facts established in other proceedings; prior cases were cited as established precedents applicable to present proceedings and not as establishing facts here. P. 964.
3. Contention that ordered refunds—so-called "retroactive rate making"—would have detrimental effect on industry's ability to plan, budget and finance future drilling or upon producers' financial stability is without merit. P. 964.
4. Loss sustained on individual producing property is not ground for refusal to order refunds. P. 965.
5. Motion for stay denied since order did not provide that refunds be made but provided only that refund amounts be computed and such amounts placed in escrow or retained by producers pending further order. P. 965.
6. Upon rehearing, Commission *confirms* prior order requiring refunds and *denies* motions for stay.

Commissioner O'Connor *dissenting.*
Commissioner Carver *not participating.*

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

On July 27, 1966, the Commission issued Opinion No. 501, 36 FPC 309, and its accompanying order in this proceeding, requiring refunds by certain natural gas producers of a part of the amounts collected by them in excess of the 16 cents per Mcf later determined to be the proper initial rate. Because these excess amounts were collected while operating under temporary certificates without express refund conditions, and because a balancing of the equities indicated that refunds in full should not be ordered, no refunds were required of certain excess amounts collected but later disbursed in production tax payments which cannot be recouped or in royalty payments. Applications for rehearing have been filed by Texaco Inc. (Texaco), Sunray DX Oil Company (Sunray), Standard Oil Company of Texas, a division of Chevron Oil Company (Sotex), Edwin L. Cox (Cox), Clark Fuel Producing Company (Operator), *et al.* (Clark), George H. Coates (Coates), Humble Oil & Refining Company (Humble), Sohio Petroleum Company (Sohio), Lamar Hunt (Hunt), American Petrofina Company of Texas (Petrofina), Patchin-Wilmoth Industries, Inc. (Patchin-Wilmoth), and Sun Oil Company (Sun). Motions for stay of the ordering clauses of Opinion No. 501 were made by a majority of the applicants. By order issued September 2, 1966, we granted rehearing for the purpose of reconsideration.

In general, the applications for rehearing reiterated arguments previously considered and rejected by this Commission in Opinion No. 501 and in *Skelly Oil Company, et al.*, Opinion Nos. 492, 35 FPC 849 and 492–A, 36 FPC 143 (1966), and *H. L. Hawkins & H. L. Hawkins, Jr. (Operator), et al.*, Opinion Nos. 498, 36 FPC 149 and 498–A, *infra*, p. 981 (1966). We have found nothing in the applications for rehearing which would cause us to alter our prior determinations. Certain statements in these applications, however, deserve comment.

Hunt alleges "The Commission erred in concluding that Hunt had notice of a potential refund obligation subsequent to February 1, 1964." (Hunt application, page 9.) This argument was dealt with in *H. L. Hawkins & H. L. Hawkins, Jr. (Operator), et al.*, Opinion No. 498–A:

> Some of the applicants argue that refund of excess amounts collected but later paid out in royalties should not be required even after February

> 1, 1964. We held that on that date producers should be considered to have knowledge that refunds might be required by reason of the doctrine declared by the Court of Appeals for the District of Columbia in *P.S.C. of the State of New York* v. *F.P.C.*, 329 F. 2d 242, issued January 23, 1964. As a legal matter the producers, like any other persons, might be charged with knowledge of what the law was, even prior to the time that it was first declared by a court and even though the Commission had previously held a different view. As a matter of equity, however, we think that the producers should not be charged with the knowledge of the law as declared by the Court of Appeals prior to the time of that court's decision. From the time this view of the law was enunciated by the court, every producer either knew or should have known that refunds might be required of excess amounts collected under temporary certificates, even though these certificates contained no explicit refund conditions. (p. 983)

Sotex and Clark object to the equities in the present case being determined by the Commission on the basis of Opinion Nos. 492, 492-A, 498 and 499, 36 FPC 164, to which Sotex and Clark were not parties. (Sotex application, page 7; Clark application, page 6.) Neither Sotex nor Clark nor any other applicant in this proceeding is being held responsible for refunds on the basis of facts established in other proceedings. These applicants have had full opportunity to set forth any facts and any evidence which they wished to present with respect to their particular circumstances in this proceeding. Clark and Sotex have alleged no facts which would serve to differentiate their cases from those cited by us. These cases were cited as established precedents applicable to the present proceeding, and not as establishing the facts in this proceeding.

Several applicants contend that they were improperly deprived of an opportunity to present evidence on the nature of their budgeting and planning activities "and how disastrous the ordering of refunds will be on such activities." (Texaco application, page 3; Humble application, page 5.) According to figures submitted by the two companies, the total refund exposure of Humble in this proceeding is under $25,000 and the total refund exposure of Texaco is under $1,500. No serious argument can be made that refunds of these amounts would seriously disrupt the fiscal activities of corporations such as Humble and Texaco. The broader arguments made by others that such "retroactive rate making" will have detrimental effect on the industry's ability to plan, budget and finance future drilling (Sunray application, page 3) or upon the financial stability of producers (Cox, page 4) have been fully considered by the Commission and found to be without merit.

Patchin-Wilmoth states that it has built three miles of pipeline with a metering station and compression plant at a total cost of $33,943.56 for the purpose of delivering the gas to the pipeline purchaser. Five cents per Mcf of the 18 cents per Mcf contract price was allotted to it by the other working interest owners as reimbursement for the building of the facilities. After recovery of the cost of construction 3.5 cents was allotted as compensation for maintenance of the pipeline, metering station and compression plant. Pursuant to Opinion No. 422, 31 FPC 623, which directed an initial price of 16 cents per Mcf, the total price to seller was reduced to 16 cents. Thereafter, in March 1966, the gas field became nonproductive, causing Patchin-Wilmoth to sustain substantial loss both in the drilling and equipping of its wells and the construction of the delivery facilities.

A loss sustained on an individual producing property is not grounds for refusal to order refunds. The initial price to which seller was entitled has previously been determined in this proceeding (Opinion No. 422), and we think that this price should be the measure of the refunds to be required here.

No substantial reason has been advanced why stay should be had of the ordering paragraphs of Opinion No. 501. Those paragraphs did not provide that refunds should be made; they provided only that the amounts of such refunds should be computed and that these amounts should be placed in escrow or retained by the producers pending further order of the Commission. In the event the in-line price is modified by court order, this will be taken into account in a later order disposing of the refund amounts.

The Commission finds:

(1) The assignments of error and applications for rehearing filed in this proceeding present no new facts or legal principles which would warrant any change in, or modification of, the Commission's Opinion No. 501 in this proceeding issued July 27, 1966.

(2) No good cause exists for granting the motions for stay of the ordering paragraphs of said Opinion No. 501.

The Commission orders:

(A) Opinion No. 501 and its accompanying order, issued July 27, 1966, are in all respects confirmed.

(B) The relief requested on rehearing in the applications for rehearing filed in this proceeding is hereby denied.

(C) The motions for stay of the ordering paragraphs of Opinion No. 501 are denied.

Commissioner O'Connor *dissenting.*

Commissioner Carver *not participating.*

O'CONNOR, *Commissioner, dissenting:*

In accordance with my dissent from the majority opinion in Opinion No. 501, I would grant the relief requested in the applications for rehearing. In addition, I would add further comments with regard to Patchin-Wilmoth Industries, Inc., *et al.* (Successor to Cherosage Enterprises, Inc.) (Patchin-Wilmoth).

On April 10, 1962, Patchin-Wilmoth entered into a gas sale contract with Natural Gas Pipeline Company of America (Natural) wherein Patchin-Wilmoth agreed to sell gas to Natural at a fixed price of 18.00 cents per Mcf without escalations for a period of 20 years. To make this sale, Patchin-Wilmoth constructed three miles of lateral line for delivery to Natural's main line as well as a metering station and compression plant. These facilities cost approximately $33,943.00.

On March 23, 1964, the Commission issued Opinion No. 422, *Amerada Petroleum Corporation, et al.*, Docket No. CI62-1544, *et al.*, 31 FPC 623, which set an initial price of 16.00 cents per Mcf for the gas in Patchin-Wilmoth's production area. In compliance therewith, the 18.00 cents price paid by Natural was reduced to 16.00 cents. Two years later, in March 1966, Patchin-Wilmoth's gas field became non-productive.

Total refunds owed by Patchin-Wilmoth are estimated to be $2,750.00. Furthermore, Patchin-Wilmoth has no other certificates on file with the Commission nor does it appear that it owns a working interest in any other properties for which rate schedules are on file with this Commission. During the period of production, revenues fell far short of costs and as a result, the company has suffered a substantial loss. Therefore, in light of the minimal refunds involved; the construction of delivery facilities by the seller; the fact that production has ceased; the limited amount of gas that was recovered; and, the substantial loss on investment, the majority, by ordering refunds, has shown an utter disregard of the equities involved and accordingly I dissent.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

ARKANSAS LOUISIANA GAS COMPANY, DOCKET NO. CP67-89

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued December 6, 1966)

On October 4, 1966, Arkansas Louisiana Gas Company (Applicant) filed in Docket No. CP67-89 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities for the transportation and delivery of volumes of natural gas to a new industrial customer, all as more fully set forth in the application.

Applicant seeks authorization to construct and operate approximately 9,000 feet of 3½-inch line from Applicant's existing 18-inch line "L" with the necessary metering and regulating equipment, which will extend to the new plant facility of the Dow Chemical Company, near Magnolia, Columbia County, Arkansas.

Applicant estimates the natural gas requirements of the new service to be approximately 3,420 Mcf per day and approximately 1,125,000 Mcf per year.

The total estimated cost of construction is $27,980, which will be defrayed from cash on hand.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on December 1, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization, and upon consideration of the record,

The Commission finds:

(1) Applicant, Arkansas Louisiana Gas Company, a Delaware corporation having its principal place of business in Shreveport, Louisiana, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of January 26, 1943, in Docket No. G-252 (3 FPC 910).

(2) The proposed construction and operation of facilities and transportation and delivery of natural gas as hereinbefore described, and as more fully described in the application and exhibits in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed construction and operation of facilities, transportation and delivery are required by the public convenience and necessity

and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to the Applicant in this proceeding, authorizing the construction and operation of facilities and transportation and delivery of up to 3,420 Mcf daily of natural gas as more fully described in the application and exhibits in this proceeding, subject to the jurisdiction of the Commission, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be constructed and placed in actual operation, and transportation of natural gas authorized in paragraph (A) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within six months from the date on which this order issues.

(D) The certificate issued by paragraph (A) above is granted on the express condition that (1) the facilities authorized shall not be used to transport more than 3,420 Mcf daily of interruptible gas to the Dow Chemical Company (2) the interruptible service authorized herein shall be curtailed or interrupted to the extent required to meet existing or future contracted maximum delivery obligations of Applicant for firm service to its customers, and (3) Applicant shall file with the Commission copies of the contract with Dow as required by Section 155.1 of the Commission's Regulations under the Natural Gas Act.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

CENTRAL MAINE POWER COMPANY, PROJECT NO. 2519

ORDER ISSUING LICENSE (MAJOR)

(Issued December 6, 1966)*

Application was filed on April 19, 1965 by Central Maine Power Company (Applicant) of Augusta, Maine, for a major license under Section 4(e) of the Federal Power Act (Act) for constructed Project No. 2519, known as North

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*See order issued January 25, 1967 granting rehearing.

Gorham Project, located on the Presumpscot River, which empties into Casco Bay, an estuary of the Atlantic Ocean at Falmouth, Maine, in the Towns of Gorham, Windham, and Standish, Cumberland County, Maine. No lands of the United States are affected by the project.

Hydroelectric development of the project site was first undertaken in 1898 which, when installation was completed, included four water wheels with a total capacity of 3,544 horsepower and four generators with a total capacity of 2,000 kilowatts. In 1915–1916 the spillway section of the dam was rebuilt and in 1925–1926 the old generating units were retired and two new water wheels of 1,460 horsepower each were installed, along with two generators of 1,125 kilowatts each. There have been no substantial alterations or replacements to the project thereafter.

The Presumpscot River originates at the easterly side of Sebago Lake and follows a meandering but generally southeasterly course for about 24 miles to its mouth in Casco Bay between the Towns of Falmouth and Portland, Maine. The North Gorham Project is located on the Presumpscot River 21.5 miles above its mouth. Historical records show that the Presumpscot from its source to its mouth was used for canoe transportation by the Indians and early explorers of the region, and was the avenue for the flotation of extensive quantities of pine logs to be made into boards at mills along the river at such places as Lower Falls and Saccarappa, for flotation of masts which were shipped from Casco Bay to England for the British Navy, and for the rafting or boating of other products such as corn and salt. Dams across the Presumpscot were constructed with sluiceways for the passage of logs, lumber, boats and fish. At the present time, the Presumpscot is used for recreation as a canoe route from Casco Bay up to Sebago Lake and on upstream to Harrison Village on Long Lake.

The Secretary of the Army and the Chief of Engineers have approved the plans of the project structures pursuant to Section 4(e) of the Act insofar as the interests of navigation are concerned.

The Department of the Interior, in reporting on the application, has advised that the terms and conditions in the interests of fish and wildlife and recreation resources, set forth in attached Form L-3, are adequate.

The Department of Health, Education, and Welfare has advised that the project has no adverse affects on water supply, water pollution control, or vector control, and none is anticipated.

The Department of Inland Fisheries and Game, of Maine, stated that any license issued for the project should include provisions for construction of a fishway or other fish passage facilities if and when it is deemed desirable by the Maine Inland Fisheries and Game Department, and the State Park & Recreation Commission has stated it agrees with the statement of the Department of Inland Fisheries and Game. It is our view that the pertinent provisions of attached Form L-3 and Article 33 are adequate.

For the reasons set forth in our April 25, 1962, Opinion No. 357 (27 FPC 830), the license herein granted shall have an effective date of April 1, 1962 and a termination date of December 31, 1993.

The Commission finds:

(1) The Presumpscot River from its source in Sebago Lake down to its mouth in Casco Bay between the Towns of Falmouth and Portland is a navigable waterway of the United States.

(2) North Gorham Project No. 2519 is located in and along a navigable water of the United States.

(3) Applicant is a corporation organized under the laws of the State of Maine, and has submitted satisfactory evidence of compliance with the requirements of all applicable State laws insofar as necessary to effectuate the purposes of a license for the project.

(4) Public notice of the filing of the application has been given. No protests or petitions to intervene have been received. No conflicting application is before the Commission.

(5) The project does not affect a Government dam, nor will the issuance of a license therefor, as hereinafter provided, affect the development of any water resources for public purposes which should be undertaken by the United States.

(6) Subject to the terms and conditions hereinafter imposed, the project will be best adapted to a comprehensive plan for improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, for the improvement and utilization of water-power development, and for other beneficial public uses, including recreational purposes.

(7) The installed horsepower capacity of the project hereinafter authorized for the purpose of computing the capacity component of the administrative annual charge is 3,000 horsepower, and the amount of annual charges, based on such capacity, to be paid under the license for the project, for the costs of administration of Part I of the Act is reasonable.

(8) The exhibits designated and described in paragraph (B) below conform to the Commission's rules and regulations and should be approved as part of this license to the extent indicated therein.

The Commission orders:

(A) This license is hereby issued to Central Maine Power Company (Licensee) of Augusta, Maine, under Section 4(e) of the Federal Power Act (Act), for a period effective as of April 1, 1962, and terminating December 31, 1993, for the continued operation and maintenance of North Gorham Project No. 2519, located on the Presumpscot River, navigable waters of the United States, in the State of Maine, subject to the terms and conditions of the Federal Power Act (Act) which is incorporated herein by reference as a part of this license, and subject to such rules and regulations as the Commission has issued or prescribed under the provisions of the Act.

(B) North Gorham Project consists of:

(i) all lands constituting the project area and enclosed by the project boundary or the limits of which are otherwise defined, and/or interest in such lands necessary or appropriate for the purposes of the project, whether such lands or interest therein are owned or held by the Licensee or by the United States; such project area and project boundary being more specifically shown and described by certain exhibits which formed part of the application for license and which are designated and described as follows:

Exhibit J: Sheet 1 (FPC No. 2519-1) entitled "General Map, Transmission System," insofar as it shows the general location of the North Gorham project.

Exhibit K: Sheet 1 (FPC No. 2519-2) entitled "Detail Map."

(ii) project works consisting of: (1) a dam, including a cut stone nonoverflow wall about 600 feet long, a gated masonry intake section about 51 feet long, a deep sluice gate section (submerged gates) about 47 feet long, a concrete gravity spillway section about 256 feet long, a sluiceway (with stop logs) about 3¾ feet wide, a cutoff wall about 38 feet long; (2) a reservoir area with surface area of about 98 acres at full pond elevation 221.8 feet U.S.G.S., extending upstream about 1.1 miles; (3) four 8-foot diameter steel penstocks, two to each of two open-flume surge chambers at the powerhouse;

(4) a powerhouse containing two 1,460 horsepower turbines each directly connected to a 1,125 kw generator; (5) two tailraces; (6) an 11/38-kv substation; and (7) appurtenant electrical facilities—the location, nature and character of which are more specifically shown and described by the exhibits hereinbefore cited and by certain other exhibits which also formed a part of the application for license and which are designated and described as follows:

Exhibit L:

Sheet No.	FPC No.	Subject
1	2519-3	Dam.
2	2519-4	Powerhouse.

Exhibit M: Consisting of three typewritten pages filed April 19, 1965, as part of the application and entitled, "General Description and Specifications of Equipment and Appurtenances".

(iii) all other structures, fixtures, equipment or facilities used or useful in the maintenance and operation of the project and located on the project area, including such portable property as may be used or useful in connection with the project or any part thereof, whether located on or off the project area, if and to the extent that the inclusion of such property as part of the project is approved or acquiesced in by the Commission; also, all riparian or other rights, the use or possession of which is necessary or appropriate in the maintenance or operation of the project.

(C) This license is also subject to the terms and conditions set forth in Form L-3 (Revised September 1, 1966), entitled "Terms and Conditions of License for Constructed Project Affecting Navigable Waters of the United States" (*infra*, p. 971), which terms and conditions, designated as Articles 1 through 31, are attached hereto and made a part hereof; and subject to the following special conditions set forth herein as additional articles:

Article 32. The licensee shall pay to the United States the following annual charge, effective April 1, 1962:

> For the purpose of reimbursing the United States for the costs of administration of Part I of the Act, a reasonable annual charge as determined by the Commission in accordance with the provisions of its regulations, in effect from time to time. The authorized installed capacity for such purpose is 3,000 horsepower.

Article 33. Licensee shall cooperate with State and local agencies and individuals in the development and maintenance of access area and roads and such other facilities necessary for full recreational utilization by the public of project lands and waters, consistent with the terms of the license and the operation of the project. At the end of three (3) years from the date of issuance of this license and every fifth year thereafter, Licensee shall advise the Commission of the results of cooperation with State and local agencies and of further recreation development at the project.

(D) The Commission reserves the right to determine at a later date what additional transmission facilities, if any, shall be included in this license as part of the project.

(E) The exhibits designated and described in paragraph (B) above are hereby approved as part of this license to the extent indicated therein.

(F) This order shall become final 30 days from the date of its issuance unless application for rehearing shall be filed as provided in Section 313(a) of the Act, and failure to file such an application shall constitute acceptance of this license. In acknowledgement of the acceptance of this license, it shall be signed for the licensee and returned to the Commission within 60 days from the date of issuance of this order.

FORM L-3

(REVISED SEPTEMBER 1, 1966)

TERMS AND CONDITIONS OF LICENSE FOR CONSTRUCTED PROJECT AFFECTING NAVIGABLE WATERS OF THE UNITED STATES

Article 1. The entire project, as described in the order of the Commission, shall be subject to all the provisions, terms, and conditions of the license.

Article 2. No substantial change shall be made in the maps, plans, specifications, and statements described and designated as exhibits and approved by the Commission in its order as part of the license, until such change shall have been approved by the Commission: *Provided, however,* that if the Licensee or the Commission deems it necessary or desirable that said approved exhibits, or any of them, be changed, there shall be submitted to the Commission for approval amended, supplemental, or additional exhibit or exhibits covering the proposed change which, upon approval by the Commission, shall become a part of the license and shall supersede, in whole or in part, such exhibit or exhibits theretofore made a part of the license as may be specified by the Commission.

Article 3. The project area and project works shall be in conformity with the approved exhibits referred to in Article 2 hereof. If the Licensee shall contemplate any substantial alteration in or addition to the project area or project works shown and described by the approved exhibits referred to in Article 2 herein, the Licensee shall submit to the Commission for approval amended, supplemental, or additional exhibits under the provisions of said article covering such alteration or addition, together with a statement in writing setting forth the reasons which necessitate or justify such alteration or addition. Except when emergency shall require for the protection of navigation, life, health, or property, no substantial alteration or addition not in conformity with the approved plans shall be made to any dam or other project works under the license without the prior approval of the Commission; and any emergency alteration or addition so made shall thereafter be subject to such modification and change as the Commission may direct. Minor changes in the project works or divergence from such approved exhibits may be made if such changes will not result in decrease in efficiency, in material increase in cost, or in impairment of the general scheme of development; but any of such minor changes made without the prior approval of the Commission, which in its judgment have produced or will produce any of such results, shall be subject to such alteration as the Commission may direct.

Article 4. The project, including its operation and maintenance and any work incident to additions or alterations authorized by the Commission, shall be subject to the inspection and supervision of the Regional Engineer, Federal Power Commission, in the region wherein the project is located, or of such other officer or agent as the Commission may designate, who shall be the authorized representative of the Commission for such purposes. The Licensee shall cooperate fully with said representative and shall furnish him such information as he may require concerning the operation and maintenance of the project, and of any such alteration thereof, and shall notify him of the date upon which work with respect to any alteration will begin, and as far in advance thereof as said representative may reasonably specify, and shall notify him promptly in writing of any suspension of work for a period of more than one week, and of its resumption and completion. Licensee shall submit to said representative a detailed program of inspection by the Licensee that will provide for an adequate and qualified inspection force for construction of any such alterations to the project. Construction of said alterations or any feature thereof shall not be initiated until the program of inspection for the alterations or any feature thereof has been approved by said representative. The Licensee shall allow said representative and other officers or employees of the United States, showing proper credentials, free and unrestricted access to, through, and across the project lands and project works in the performance of their official duties. The Licensee shall comply with such rules and regulations of general or special applicability as the Commission may from time to time prescribe for the protection of life, health or property.

Article 5. In the absence of specific Commission exemption, the Licensee within five years from date of issuance of the license shall acquire title in fee or the right to use in perpetuity all lands, other than lands of the United States, necessary or appropriate for the maintenance and operation of the project. The Licensee, its successors and assigns shall, during the period of the license, retain the possession of all project property covered by the license as issued or as later amended, including the project area, the project works, and all franchises, easements, water rights, and rights of occupancy and use; and none of such properties shall be voluntarily sold, leased, transferred, abandoned, or otherwise disposed of without the prior written approval of the Commission, except that the Licensee may lease or otherwise dispose of interests in project lands or property without specific written approval of the Commission pursuant to the then current regulations of the Commission. The provisions of this article are not intended to prevent the abandonment or the retirement from service of structures, equipment, or other project works in connection with replacements thereof when they become obsolete, inadequate, or inefficient for further service due to wear and tear; and mortgage or trust deed or judicial sales made thereunder, or tax sales, shall not be deemed voluntary transfers within the meaning of this article.

Article 6. In the event the project is taken over by the United States upon the termination of the license, as provided in Section 14 of the Act, or is transferred to a new licensee under the provisions of Section 15 of the Act, the Licensee, its successors and assigns will be responsible for and will make good any defect of title to or of right of occupancy and use in any of such project property which is necessary or appropriate or valuable and serviceable in the maintenance and operation of the project, and will pay and discharge, or will assume responsibility for payment and discharge, of all liens or incumbrances upon the project or project property created by the Licensee or created or incurred after the issuance of the license: *Provided,* That the provisions of this article are not intended to require the Licensee, for the purpose of transferring the project to the United States or to a new Licensee, to acquire any different title to or right of occupancy and use in any of such project property than was necessary to acquire for its own purposes as Licensee.

Article 7. The actual legitimate original cost, estimated where not known, and the accrued depreciation of the project as of the effective date of the license shall be determined by the Commission in accordance with the Act and the rules and regulations of the Commission, and such cost less such accrued depreciation, so determined, shall be the net investment in the project as of such effective date.

Article 8. After the first 20 years of operation of the project under the license, six percent per annum shall be the specified rate of return on the net investment in the project for determining surplus earnings of the project for the establishment and maintenance of amortization reserves, pursuant to Section 10(d) of the Act; one-half of the project surplus earnings, if any, accumulated after the first 20 years of operation under the license, in excess of six percent per annum on the net investment, shall be set aside in a project amortization reserve account as of the end of each fiscal year: *Provided*, That, if and to the extent that there is a deficiency of project earnings below six percent per annum for any fiscal year or years after the first 20 years of operation under the license, the amount of such deficiency shall be deducted from the amount of any surplus earnings accumulated thereafter until absorbed, and one-half of the remaining surplus earnings, if any thus cumulatively computed, shall be set aside in the project amortization reserve account; and the amounts thus established in the project amortization reserve account shall be maintained therein until further order of the Commission.

Article 9. For the purpose of determining the stage and flow of the stream or streams from which water is diverted for the operation of the project works, the amount of water held in and withdrawn from storage, and the effective head on the turbines, the Licensee shall install and thereafter maintain such gages and stream-gaging stations as the Commission may deem necessary and best adapted to the requirements; and shall provide for the required readings of such gages and for the adequate rating of such stations. The Licensee shall also install and maintain standard meters adequate for the determination of the amount of electric energy generated by said project works. The number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, shall at all times be satisfactory to the Commission and may be altered from time to time if necessary to secure adequate determinations, but such alteration shall not be made except with the approval of the Commission or upon the specific direction of the Commission. The installation of gages, the ratings of said stream or streams, and the determination of the flow thereof, shall be under the supervision of, or in cooperation with, the District Engineer of the United States Geological Survey having charge of stream-gaging operations in the region of said project, and the Licensee shall advance to the United States Geological Survey the amount of funds estimated to be necessary for such supervision or cooperation for such periods as may be mutually agreed upon. The Licensee shall keep accurate and sufficient record of the foregoing determinations to the satisfaction of the Commission, and shall make return of such records annually at such time and in such form as the Commission may prescribe.

Article 10. The Licensee shall install additional capacity or make other changes in the project as directed by the Commission, to the extent that it is economically sound and in the public interest to do so, after notice and opportunity for hearing.

Article 11. The Licensee shall, after notice and opportunity for hearing, coordinate the operation of the project, electrically and hydraulically, with such other projects or power systems and in such manner as the Commission may direct in the interest of power and other beneficial public uses of water resources, and on such conditions concerning the equitable sharing of benefits by the Licensee as the Commission may order.

Article 12. Whenever the Licensee is directly benefited by the construction work of another licensee, a permittee, or of the United States of a storage reservoir or other headwater improvement, the Licensee shall reimburse the owner of the headwater improvement for such part of the annual charges for interest, maintenance, and depreciation thereon as the Commission shall determine to be equitable, and shall pay to the United States the cost of making such determination as fixed by the Commission. For benefits provided by a storage reservoir or other headwater improvement of the United States the Licensee shall pay to the Commission the amounts for which it is billed from time to time for such headwater benefits and for the costs of making the determinations pursuant to the then current Commission Regulations under the Federal Power Act within 60 days from the date of rendition of a bill therefore and, upon failure to do so, shall thereafter be subject to the payment of the penalties specified in the then current Regulations. The Licensee shall have the right to pay such amounts under protest within the 60-day period and to reconsideration of the determination of the amounts billed or a hearing as provided by the then current Regulations under the Act.

Article 13. The United States specifically retains and safeguards the right to use water in such amount, to be determined by the Secretary of the Army, as may be necessary for the purposes of navigation on the navigable waterway affected; and the operations of the Licensee, so far as they affect the use, storage and discharge from storage of waters affected by the license, shall at all times be controlled by such reasonable rules and regulations as the Secretary of the Army may prescribe in the interest of navigation, and as the Commission may prescribe for the protection of life, health, and property, and in the interest of the fullest practicable conservation and utilization of such waters for power purposes and for other beneficial public uses, including recreational purposes; and the Licensee shall release water from the project reservoir at such rate in cubic feet per second, or such volume in acre-feet per specified period of time, as the Secretary of the Army may prescribe in the interest of navigation, or as the Commission may prescribe for the other purposes hereinbefore mentioned.

Article 14. On the application of any person, association, corporation, Federal agency, State or municipality, the Licensee shall, after notice and opportunity for hearing, permit such reasonable use of its reservoirs or other project properties, including works, lands and water rights, or parts thereof, as may be ordered by the Commission in the interest of comprehensive development of the waterway or waterways involved and the conservation and utilization of water resources of the region, for water supply for the purpose of steam-electric, irrigation, industrial, municipal or similar uses. The Licensee shall receive reasonable compensation, at least full reimbursement for any damages or expenses which the joint use causes him to incur, for use of its reservoirs or other project properties or parts thereof for such purposes, any such compensation to be fixed by the Commission either by approval of an agreement between the Licensee and the party or parties benefiting or after notice and opportunity for hearing. Applications shall contain information in sufficient detail to afford a full understanding of the proposed use, including satisfactory evidence that the applicant possesses necessary water rights pursuant to applicable State law, or a showing of cause why such evidence cannot be concurrently submitted, and a statement as to the relationship of the proposed use to any State or municipal plans or orders which may have been adopted with respect to the use of such waters.

Article 15. In the construction or maintenance of the project works, the Licensee shall place and maintain suitable structures and devices to reduce to a reasonable degree the liability of contact between its transmission lines and telegraph, telephone and other signal wires or power transmission lines constructed prior to its transmission lines and not owned by the Licensee, and shall also place and maintain suitable structures and devices to reduce to a reasonable degree the liability of any structures or wires falling or obstructing traffic or endangering life. None of the provisions of this article are intended to relieve the Licensee from any responsibility or requirement which may be imposed by other lawful authority for avoiding or eliminating inductive interference.

Article 16. The Licensee shall, for the conservation and development of fish and wildlife resources, construct, maintain, and operate, or arrange for the construction, maintenance and operation of such facilities and comply with such reasonable modifications of the project structures and operation as may be ordered by the Commission upon its own motion or upon the recommendation of the Secretary of the Interior or the fish and wildlife agency or agencies of any State in which the project or a part thereof is located, after notice and opportunity for hearing and upon findings based on substantial evidence that such facilities and modifications are necessary and desirable, reasonably consistent with the primary purpose of the project, and consistent with the provisions of the Act.

Article 17. Whenever the United States shall desire, in connection with the project, to construct fish and wildlife facilities or to improve the existing fish and wildlife facilities at its own expense, the Licensee shall permit the United States or its designated agency to use, free of cost, such of Licensee's lands and interest in lands, reservoirs, waterways and project works as may be reasonably required to complete such facilities or such improvements thereof. In addition, after notice and opportunity for hearing, the Licensee shall modify the project operation as may be prescribed by the Commission, reasonably consistent with the primary purpose of the project, in order to permit the maintenance and operation of the fish and wildlife facilities constructed or improved by the United States under the provisions of this article. This article shall not be interpreted to place any obligation on the United States to construct or improve fish and wildlife facilities or to relieve the Licensee of any obligation under this license.

Article 18. The Licensee shall construct, maintain and operate or shall arrange for the construction, maintenance and operation of such recreational facilities including modifications thereto, such as access roads, wharves, launching ramps, beaches, picnic and camping areas, sanitary facilities and utilities, and shall comply with such reasonable modifications of the project structures and operations as may be prescribed hereafter by the Commission during the term of this license upon its own motion or upon the recommendation of the Secretary of the Interior or other interested Federal and State agencies, after notice and opportunity for hearing and upon findings based upon substantial evidence that such facilities and modifications are necessary and desirable, and reasonably consistent with the primary purpose of the project.

Article 19. So far as is consistent with proper operation of the project, the Licensee shall allow the public free access, to a reasonable extent, to project waters and adjacent project lands owned by the Licensee for the purpose of full public utilization of such lands and waters for navigation and recreational purposes, including fishing and hunting, and shall allow to a reasonable extent for such purposes the construction of access roads, wharves, landings, and other facilities on its lands the occupancy of which may in appropriate circumstances be subject to payment of rent to the Licensee in a reasonable amount: *Provided*, That the Licensee may reserve from public access, such portions of the project waters, adjacent lands, and project facilities as may be necessary for the protection of life, health, and property: *And provided, further*, That the Licensee's consent to the construction of access roads, wharves, landings, and other facilities shall not, without its express agreement, place upon the Licensee any obligation to construct or maintain such facilities. These facilities are in addition to the facilities that the Licensee may construct and maintain as required by the license.

Article 20. The Licensee shall be responsible for and shall take reasonable measures to prevent soil erosion on lands adjacent to the stream and to prevent stream siltation or pollution resulting from construction, operation or maintenance of the project. The Commission upon request, or upon its own motion, may order the Licensee to construct and maintain such preventive works to accomplish these purposes and to revegetate exposed soil surface as the Commission may find to be necessary after notice and opportunity for hearing.

Article 21. There is reserved to the appropriate department or agency of the United States, or of the State or county involved, the right to take over, maintain, and supervise the use of any project road as a public road.

Article 22. The Licensee shall clear and keep clear to an adequate width lands along open conduits and shall dispose of all temporary structures, unused timber, brush, refuse, or inflammable material resulting from the clearing of lands or from the maintenance or alteration of the project works. In addition, all trees along the margins of reservoirs which may die during operations of the project shall be removed. The clearing of the lands and the disposal of the material shall be done with due diligence and to the satisfaction of the authorized representative of the Commission.

Article 23. Insofar as any material is dredged or excavated in the prosecution of any work authorized under the license, or in the maintenance of the project, such material shall be removed and deposited so it will not interfere with navigation, and will be to the satisfaction of the District Engineer, Department of the Army, in charge of the locality.

Article 24. Whenever the United States shall desire to construct, complete, or improve navigation facilities in connection with the project, the Licensee shall convey to the United States, free of cost, such of its lands and its rights-of-way and such right of passage through its dams or other structures, and permit such control of pools as may be required to complete and maintain such navigation facilities.

Article 25. The Licensee shall furnish free of cost to the United States power for the operation and maintenance of navigation facilities at the voltage and frequency required by such facilities and at a point adjacent thereto whether said facilities are constructed by the Licensee or by the United States.

Article 26. The operation of any navigation facilities which may be constructed as a part of or in connection with any dam or diversion structure constituting a part of the project works shall at all times be controlled by such reasonable rules and regulations in the interest of navigation, including the control of the level of the pool caused by such dam or diversion structure, as may be made from time to time by the Secretary of the Army.

Article 27. The Licensee shall for the protection of navigation, construct, maintain and operate at its own expense such lights and other signals on fixed structures in or over navigable waters of the United States as may be directed by the Secretary of the Department in which the Coast Guard is operating.

Article 28. If the Licensee shall cause or suffer essential project property to be removed or destroyed or to become unfit for use, without adequate replacement, or shall abandon or discontinue good faith operation of the project for a period of three years, or refuse or neglect to comply with the terms of the license and the lawful orders of the Commission mailed to the record address of the Licensee or its agent, the Commission will deem it to be the intent of the Licensee to surrender the license, and not less than 90 days after public notice may in its discretion terminate the license.

Article 29. Upon abandonment of the project the Licensee shall remove all structures, equipment and power lines from the stream and restore said stream to a condition satisfactory to the Commission's authorized representative and shall fulfill such other obligations under the license as the Commission may prescribe.

Article 30. The right of the Licensee and of its transferees and successors to use or occupy waters, over which the United States has jurisdiction, under the license, for the purpose of maintaining the project works or otherwise, shall absolutely cease at the end of the license period, unless Licensee has obtained a new license pursuant to the then existing laws and regulations or an annual license under the terms and conditions of this license.

Article 31. The terms and conditions expressly set forth in the license shall not be construed as impairing any terms and conditions of the Federal Power Act which are not expressly set forth herein.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

CITIES SERVICE GAS COMPANY, DOCKET NO. CP67-90

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued December 6, 1966)

On October 10, 1966, Cities Service Gas Company (Applicant), filed in Docket No. CP67-90 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas to The Gas Service Company (Gas Service) for resale and distribution by it to consumers in and about the City of Sheldon, Missouri, all as more fully set forth in the application.

Applicant seeks authority to sell and deliver gas to Gas Service through the existing Jasper-Lamar meter for resale by Gas Service to the consumers in Sheldon, Missouri and environs. No facilities will be constructed or installed by Applicant, and Gas Service will transport the gas through facilities it will construct from its 6-inch pipeline near Lamar, Missouri, to the vicinity of Sheldon, Missouri. The proposed sale for resale will be made under Cities' F-2, C-2 and I-2 FPC Gas Rate Schedules.

Peak day and annual requirements and deliveries, firm and interruptible for the first three years are estimated to be:

Year	1	2	3
Peak day—Mcf.:			
Requirements firm	172	225	279
Requirements int	290	290	290
Total	462	515	569
Deliveries firm	172	225	279
Deliveries int			
Total	172	225	279
Annual—Mcf.:			
Requirements firm	13,300	17,500	21,700
Requirements int	60,000	60,000	60,000
Total	73,300	77,500	81,700
Deliveries firm	13,300	17,500	21,700
Deliveries int	54,000	54,000	54,000
Total	67,300	71,500	75,700

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on December 1, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, Cities Service Gas Company, a Delaware corporation having its principal place of business in Oklahoma City, Oklahoma, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of December 28, 1943, in Docket No. G–298 (4 FPC 471).

(2) The proposed sale and delivery of natural gas, as hereinbefore described and as more fully described in the application in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed sale and delivery of natural gas are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a) and (e) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Cities Service Gas Company authorizing the sale and delivery of natural gas as hereinbefore described and as more fully described in the application in this proceeding, subject to the jurisdiction of the Commission, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable

Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a) and (e) of Section 157.20 of such Regulations.

(C) Applicant shall file pursuant to Part 154 of the Commission's Regulations an acceptable service agreement reflecting the terms and conditions of the sale and the delivery point.

(D) The service authorized shall be commenced as provided by paragraph (b) of Section 157.20 of the aforesaid Regulations within 12 months of the date on which this order issues.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

EL PASO NATURAL GAS COMPANY, DOCKET NOS. CP67-60 AND CP67-61

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued December 6, 1966)

On September 12, 1966, El Paso Natural Gas Company (Applicant) filed in Docket Nos. CP67-60 and CP67-61 budget-type applications pursuant to Section 7(c) of the Natural Gas Act, as implemented by Section 157.7(b) of the Regulations under the Act, for certificates of public convenience and necessity authorizing the construction during the calendar year 1967, and the operation of gas-purchase facilities to enable Applicant to attach to its Southern and Northwest Division Systems, respectively, natural gas which will be purchased from authorized independent producers or similar sellers thereof, all as more fully set forth in said applications.

The purpose of the subject applications is to augment Applicant's ability to act with reasonable dispatch in contracting for and attaching to its Southern (Docket No. CP67-60) and Northwest Division (Docket No. CP67-61) Systems new or expanded supplies of natural gas in various producing areas generally coextensive with said systems.

In consideration of Applicant's forthcoming divestiture of its Northwest Division facilities to Northwest Pipeline Corporation (Northwest) the budget-type authorization sought therefor is intended to encompass and be applicable to only those facilities and activities of Applicant's Northwest Division System. Upon divestiture of such system to Northwest, such authorization is also intended by Applicant to be applicable, upon appropriate order of the Commission, to Northwest.

The total estimated cost for the facilities proposed in the application filed in Docket No. CP67-60 (Southern Division System) will not exceed $2,000,000, with the total cost of any one project not to exceed $500,000. The total estimated cost for the facilities proposed in the application filed in Docket No. CP67-61 (Northwest Division System) will not exceed $500,000, with the total cost of any one project not to exceed $125,000.

Paragraph (F)(3) of the order issuing certificate to Applicant in Docket No. CP64-76 (accompanying Opinion No. 500, in the matter of Transwestern Pipeline Company, *et al.*, Docket No. CP63-204, *et al.*, 36 FPC 176) as corrected by order issued August 19, 1966, 36 FPC 491, contained a provision as to the amounts of prepayments for gas to be considered in setting rates. The authorization issued hereby does not alter, amend or modify the determination made in said order.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the subject applications has been filed.

At a hearing held on December 1, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, El Paso Natural Gas Company, a Delaware corporation with its principal place of business in El Paso, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of October 29, 1942, in Docket Nos. G–242 and G–257 (3 FPC 851).

(2) The facilities hereinbefore described, as more fully described in the applications in this proceeding, are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Applicant should submit within 60 days after the expiration of the authorizations granted hereinafter, statements in compliance with subparagraph (3) of Section 157.7(b) of the Commission's Regulations under the Natural Gas Act.

(6) Public convenience and necessity require that the certificates hereinafter issued and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e), (f) and (g) of Section 157.20 of said Regulations.

(7) The authorizations hereinafter granted should be limited to construction during the calendar year 1967 and the total expenditures for facilities to be constructed thereunder should be limited to a maximum of $2,000,000 and $500,000, with no single project to exceed a cost of $500,000 and $125,000, for Applicant's Southern and Northwest Division Systems, respectively.

The Commission orders:

(A) Upon the terms and conditions of this order, certificates of public convenience and necessity are issued authorizing Applicant, El Paso Natural Gas Company, to construct during the calendar year 1967, the proposed facilities hereinbefore described, as more fully described in the applications in this proceeding, and to operate such facilities only to take natural gas supplies from producers who have received authorization from the Commission to sell natural gas to said Applicant.

(B) Applicant shall submit within 60 days after the expiration of the authorization granted by paragraph (A) above statements in compliance with subparagraph (3) of Section 157.7(b) of the Commission's Regulations under the Natural Gas Act.

(C) The certificates issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e), (f) and (g) of Section 157.20 of said Regulations.

(D) The authorizations granted in paragraph (A) above are limited to construction during the calendar year 1967, and the total expenditures for facilities to be constructed thereunder are limited to a maximum of $2,000,000 and $500,000, with no single project to exceed a cost of $500,000 and $125,000, for Applicant's Southern and Northwest Division Systems, respectively.

(E) The authorization issued hereby does not alter, amend or modify the condition as to the amount to be included for prepaid gas as in rate determinations set forth in ordering paragraph (F) (3) of the Commission's order issued July 26, 1966, as corrected August 19, 1966, accompanying Opinion No. 500 in Docket No. CP63-204, *et al.*

OPINION NO. 498-A

H. L. HAWKINS & H. L. HAWKINS, JR. (OPERATOR), ET AL., DOCKET NO. G-18077, ET AL.

OPINION AND ORDER AMENDING AND CONFIRMING ORDER REQUIRING REFUNDS

(Issued December 6, 1966)

Syllabus

1. It is now firmly established that cost evidence is not relevant to in-line determination—where refund is measured by excess above in-line price, cost evidence is irrelevant to a refund determination. P. 982.
2. Commission *reaffirms Amerada* holding that although "* * * distributors have failed or may fail to pass refunds received by them on to the ultimate consumers is not a ground for defeating the refund obligation of producers * * *." P. 983.
3. Quantity and continuity of gas supply will not be adversely affected to any appreciable extent by imposition of refund obligation in absence of prior warning. P. 983.
4. From time view of the law was enunciated by Court of Appeals on January 23, 1964, every producer either knew or should have known that refunds might be required of excess amounts collected under temporary certificates, even though certificates contained no explicit refund condition. P. 983.
5. Producer should not be excused from refund liability by reason of fact it furnished delivery facilities during period it was collecting in excess of in-line price; however, under instant circumstances, Commission *concludes* Kirby should not be required to make refunds. P. 985.
6. Commission *concludes* no refunds should be required where only well on property was plugged and abandoned in 1961. P. 985.
7. Motion for stay denied where order did not provide that refunds be made but provided only that such amounts be computed and placed in escrow or retained by producers pending further order. P. 985.
8. Upon rehearing, Commission *amends* and *confirms* order requiring refunds.

Commissioner O'Connor *concurring in part; dissenting in part.*

Commissioner Ross *not participating* in Docket No. CI60-610.
Commissioner Carver *not participating.*

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

BAGGE, *Commissioner:*

On July 22, 1966, the Commission issued its Opinion No. 498, 36 FPC 149, ordering partial refunds of amounts collected by certain independent natural gas producers in excess of the rates subsequently determined to be the proper initial rates in Texas Railroad Commission District No. 3. These excess amounts were collected while the producers were operating under temporary certificates which contained no express refund conditions. A balancing of the equities indicated that refunds in full should not be ordered. No refunds were ordered of excess amounts collected but later disbursed in payment of production taxes which cannot be recouped, or in payment of royalties or overriding royalties. Nine applications for rehearing have been filed.[1] Hunt also moved for stay of the order accompanying Opinion No. 498, and for an evidentiary hearing.

On examination of the rehearing applications, we find that a number of the points raised therein are restatements of arguments previously advanced which have been dealt with and which do not warrant further discussion here. We direct our attention to the remaining matters.

Shell contends[2] that the Commission held irrelevant "all equities against imposing refunds." This is not the case. For example, refunds of amounts paid out for royalties and production taxes were not required in certain circumstances. Also, we have held many of the considerations advanced by the producers to be relevant, but of insufficient weight to overcome "the ordinary equitable principle that one who has collected rates in excess of the rates determined to be proper should return the excess."[3]

Shell also argues that it was denied a fair hearing by the Commission's refusal to order a second stage of hearing on the in-line price "for the reason that evidence on the refund issue is irrelevant."[4] Evidence offered on the refund issue had already been received during the hearing, and was considered by the Commission. We declined to order a further hearing for reception of evidence of producer costs because that evidence was held irrelevant. The proffered evidence of the proportion of refunds previously ordered which have reached the ultimate consumer was also held irrelevant. Shell's basic argument is not that fair hearing has been denied, but that the Commission erred in holding certain evidence irrelevant.

It is now firmly established that cost evidence is not relevant to in-line price determinations.[5] Where the refund to be required is measured by the excess above an in-line price, cost evidence is irrelevant to a refund determination.

Shell, joined by the other applicants, argues that we should examine evidence showing that refunds in the past have resulted in windfalls to pipelines and distributors, with only a small portion of the refunds reaching the ultimate consumer. Under the terms of our orders in the present cases the applicants will not be required to relinquish the funds involved unless and until provision has been made for pipelines to flow these refunds through to the limits of our jurisdiction. Under these circumstances, the evidence of the producers as to the past is not relevant or material here. See *Amerada Petroleum Corporation, et al.*, Opinion No. 501, 36 FPC 309, at pp. 311, 312, confirmed in Opinion No. 501–A, issued this day, *supra*, p. 962, where we said: "The argument that distributors have failed or may fail to pass refunds received by them on to the ultimate consumers is not a ground for defeating the refund obligation of the producers, although it may be a ground for requiring that refunds be placed in escrow or that the producer retain them, paying interest thereon, until suitable arrangements can be made to see that refunds are flowed through * * *." We shall continue to do everything in our power to improve techniques to convey these funds to the ultimate consumer.

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[1] Shell Oil Company (Shell), Skelly Oil Company (Skelly), W. S. Kilroy (Operator), *et al.* (Kilroy), H. L. Hawkins & H. L. Hawkins, Jr. (Hawkins), Marathon Oil Company (Marathon), The Superior Oil Company (Superior), Sun Oil Company (Sun), Kirby Petroleum Company (Operator) (Kirby), and, jointly, by H. L. Hunt, Hassie Hunt Trust, Caroline Hunt Sands, Caroline Hunt Trust Estate, Lamar Hunt Trust Estate, Nelson Bunker Hunt and Placid Oil Company (collectively referred to as Hunt).

[2] Application, page 2.

[3] *Skelly Oil Company, et al.* Opinion No. 492-A, 36 FPC 143, page 144 (July 21, 1966).

[4] Application, page 2.

[5] *United Gas Improvement Co. v. Callery Properties, Inc.,* 382 U.S. 223 (1965).

Hunt argues that the Commission's action is contrary to the express holding of the court in *P.S.C. of the State of New York* v. *F.P.C.*, 329 F. 2d 242, 250 (1964), that it was "The Commission's duty to consider the extent to which a refund obligation in the absence of a prior warning will, by increasing the risk producers must bear, affect the quantity and continuity of the supply of gas * * *."[6] It is our conclusion that the quantity and continuity of the supply of gas will not be adversely affected to any appreciable extent.

Superior and Skelly reiterate the arguments previously rejected that a burden or measure of proof has been imposed upon the applicants to show that refunds are inequitable. This contention was sufficiently dealt with in *Skelly Oil Company, et al.*, in Opinion No. 492–A, page 144:

> There was no question of burden or measure of proof in this proceeding. The statements of the producers as to the relevant facts were accepted at their face value without presentation of evidence. The only burden cast upon the producers was to set forth any particular equities which would be peculiarly within their knowledge, and which would outweigh the ordinary equitable principle that one who has collected rates in excess of the rate determined to be proper should return the excess.

In the present proceeding the producers did in fact introduce evidence as to the equities involved.

Some of the applicants argue that refund of excess amounts collected but later paid out in royalties should not be required even after February 1, 1964. We held that on that date producers should be considered to have knowledge that refunds might be required by reason of the doctrine declared by the Court of Appeals for the District of Columbia in *P.S.C. of the State of New York* v. *F.P.C.*, 329 F. 2d 242, issued January 23, 1964. As a legal matter the producers, like any other persons, might be charged with knowledge of what the law was, even prior to the time that it was first declared by a court and even though the Commission had previously held a different view. As a matter of equity, however, we think that the producers should not be charged with the knowledge of the law as declared by the Court of Appeals prior to the time of that court's decision. From the time this view of the law was enunciated by the court, every producer either knew or should have known that refunds might be required of excess amounts collected under temporary certificates, even though these certificates contained no explicit refund conditions.

The argument that it is virtually impossible for a producer to protect itself by withholding royalty payments or by obtaining indemnification agreements is entitled to little weight under these circumstances. Many temporary certificates now issued by this Commission contain express refund conditions. The amounts of possible refunds are undetermined until a permanent certificate has issued. The applicants here, after February 1, 1964, were in a similar position.

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[6] Application, page 7.

Skelly has alleged numerous errors in its application for rehearing. All but one of these have been previously dealt with in the opinions in this proceeding or in *Skelly Oil Company, et al.*, Opinion Nos. 492, 35 FPC 849, and 492–A, *supra.* Skelly argues that it was offered a temporary certificate with an express refund condition in Docket No. G–20155, but declined to accept it, and that thereafter on November 2, 1961, the Commission revised the proffered temporary certificate, eliminating the refund condition and finding that Skelly would be permitted to render service under its rate schedule "without any conditions relating to initial prices." This is somewhat misleading as to what actually occurred. The Commission's prior order issuing certificates[7] permitted all but two of the 53 producers certificated to collect the initial prices proposed, subject to conditions providing for the future determination by the Commission of the proper initial prices for the sales and providing for refunds of amounts in excess of the prices determined proper. Thereafter, applications for rehearing were filed and rehearing was granted for purposes of reconsideration. The Commission[8] modified its prior order to provide that producers who charged rates above the guideline prices would not be allowed to collect them until an evidentiary record established the proper price, and that the other producers (whose prices were not above the guideline) would be issued temporary certificates without price conditions. The part of the Commission order quoted by Skelly appears at 26 FPC 683. It is a general statement and is not directed to the Skelly docket in particular; it is directed toward the determination of the initial price and not toward any determination of whether or not refunds might be required. Also, as pointed out by the Circuit Court of Appeals in *P.S.C. of the State of New York* v. *F.P.C.*, *supra*, the refund condition here imposed upon Skelly is not a condition of the temporary certificate. The implication in Skelly's argument is that the Commission first tendered a conditioned temporary certificate and then, after its rejection, proceeded to tender an unconditioned temporary, with an assurance that there would be no refunds required, in order to persuade Skelly to dedicate its gas to interstate commerce. The facts are directly contrary to this implication. The Commission amended its earlier order as a result of arguments presented by many producers. It did not amend the temporary certificate in order to persuade Skelly or any other producer to dedicate its gas, and the quoted language was directed not to the elimination of refund conditions but primarily to the initial price to be established. Under these circumstances, we conclude that Skelly has shown no equity which would set it apart from the other producers.

Kilroy also contends that the Commission's order of November 2, 1961, "was a final appealable order in which the Commission determined that a refund condition should not be imposed upon Kilroy's temporary or permanent certificate."[9] The portion of that order applicable to Kilroy, and quoted by Kilroy at page 3 of its application, stated that the authorization in the temporary certificate also would be "without modification pending issuance of permanent certificates."[10] This is a clear indication that the Commission intended to decide nothing with respect to the permanent certificates. Also, the quoted language was directed to the initial price to be established and not to any possible refunds. Kilroy was issued a permanent certificate which contained a refund condition, and this permanent certificate was later withdrawn. This was not a final determination that no refunds would be required. The refund condition in the original permanent certificate was part of one of the early attempts on the part of the Commission to effectuate a recouping system of price regulation. It became apparent from the arguments presented on applications for rehearing that the proposed method would not work and the certificate was withdrawn, but without any determination as to what conditions would be incorporated in the permanent certificate finally issued. There was no final or appealable order upon that question.

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[7] August 9, 1961, 26 FPC 318.

[8] By order issued November 2, 1961, 26 FPC 677.

[9] Application, page 4.

[10] 26 FPC 667, 683.

Kirby collected 17.5 cents per Mcf for its sales from July of 1960 to October 10, 1961. On the later date the pipeline purchaser exercised its option to purchase Kirby's gathering system through which the gas was delivered. Thereafter the price was reduced by 2 cents per Mcf to 15.5 cents per Mcf. Kirby argues that 2 cents of the original 17.5-cent price is attributable to the delivery by Kirby through its gathering service for the July 1960-October 1961 period, and that it should not be required now to make refunds of the 1.5 cents per Mcf collected during that period in excess of the 16-cent in-line price. We have held in this proceeding that a producer who furnishes delivery facilities is not for that reason alone entitled to a price greater than the in-line price and that the furnishing of delivery facilities is not in itself sufficient to make it inequitable for refunds to be ordered. Accordingly, Kirby should not be excused from its refund responsibility by reason of the fact that it furnished delivery facilities during that period when it was collecting in excess of the in-line price. Upon examination of all the circumstances in this case, however, we conclude that Kirby should not be required to make refunds.

Hawkins did not file any brief or statement of facts in connection with the equities in its case. On August 17, 1966, however, it filed an application for rehearing. It is there pointed out that the sales made by Hawkins took place from August, 1959 to June 1, 1961, at which time Hawkins sold the property to Johnson & McCurdy (Operator), *et al.* Johnson & McCurdy filed nothing at all with respect to the refund question but there is pending an application for abandonment in this docket. It appears that the only well on the property in question was plugged and abandoned October 23, 1961. The total refund, exclusive of royalties and of nonrecoupable taxes, amounts to approximately $750. There has been a suspension of service as a matter of necessity, even though no formal abandonment has yet been approved. The share of refunds to be borne by Johnson & McCurdy is small. The Hawkins share of refunds, while larger, is still of minor proportions and relates to operations which occurred more than five years ago. The cost and effort of proceeding with formal reports attempting to deal with transactions no longer related to a current operation is, under all the circumstances, disproportionate to the benefits which might be derived from the amount of refunds. Accordingly, we conclude that no refunds should be required of Hawkins or Johnson & McCurdy and our order requiring refunds will be amended to reflect this conclusion.

No substantial reason has been advanced why stay should be had of the order accompanying Opinion No. 498. That order did not provide that refunds should be made; it provided only that the amounts of such refunds should be computed and that these amounts should be placed in escrow or retained by the producers pending further order of the Commission. In the event the in-line price is modified by court order, this will be taken into account in a later order disposing of the refund amounts.

The Commission finds:

(1) The assignments and grounds for rehearing set forth in the applications for rehearing filed in this proceeding by Shell Oil Company, Skelly Oil Company, W. S. Kilroy (Operator), *et al.*, Marathon Oil Company, The Superior Oil Company, Sun Oil Company, H. L. Hunt, Hassie Hunt Trust, Caroline Hunt Sands, Caroline Hunt Trust Estate, Lamar Hunt Trust Estate, Nelson Bunker Hunt and Placid Oil Company present no new facts or legal principles which would warrant any change or modification in the Commission's Opinion No. 498 in this proceeding issued July 22, 1966.

(2) Upon consideration of all the equities, Kirby Petroleum Company (Operator), H. L. Hawkins & H. L. Hawkins, Jr. (Operator), *et al.* and Johnson & McCurdy (Operator), *et al.* should not be required to make refunds of any amounts collected by them during the period of their operation under temporary certificates of public convenience and necessity in Docket Nos. G–18077 and CI60–610.

The Commission orders:

(A) Appendix A to Opinion No. 498 and its accompanying order issued July 22, 1966, is hereby amended by deleting therefrom:

G–18077 H. L. Hawkins & H. L. Hawkins, Jr., Operator, *et al.*, 17.5 and CI60–610 Kirby Petroleum Company, Operator, 17.5,[5] and Footnote 5 thereto.

(B) Except as amended and modified herein, Opinion No. 498 and its accompanying order, issued July 22, 1966, are in all respects confirmed.

(C) The motions of H. L. Hunt, Hassie Hunt Trust, Caroline Hunt Sands, Caroline Hunt Trust Estate, Lamar Hunt Trust Estate, Nelson Bunker Hunt and Placid Oil Company for stay of the order accompanying Opinion No. 498, and for an evidentiary hearing, are denied.

Commissioner O'Connor *concurs* in the result in Docket Nos. G–18077 and CI60–610. In addition, he would grant the relief requested in the other applications for rehearing for the reasons stated in his dissent to Opinion No. 498, *supra*, at p. 156. Commissioner Ross *not participating* in this decision with respect to Docket No. CI60–610. Commissioner Carver *not participating.*

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

NATURAL GAS PIPELINE COMPANY OF AMERICA, DOCKET NO. CP66–170

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued December 6, 1966)

On December 1, 1965, Natural Gas Pipeline Company of America (Applicant), filed in Docket No. CP66–170 an application and a supplement thereto on October 21, 1966, pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a supply pipeline extending from the outlet side of the Henry Processing Plant of Texaco Inc., and miscellaneous facilities appurtenant thereto in the Erath Field, Vermilion Parish, Louisiana, to Applicant's existing natural gas transmission system in southwest Cameron Parish, Louisiana, to enable Applicant to take into its main pipeline system natural gas proposed to be purchased from Texaco Inc. (Texaco), all as more fully set forth in the application and supplement thereto.

The application reflects that Applicant and Texaco terminated the contract of August 10, 1965, providing for the purchase of 2.4 billion Mcf of natural gas and have entered into a new contract dated October 18, 1966, providing for the purchase of 1.4 billion Mcf of natural gas (the developed portion of the reserves covered by the previous contract).

Texaco was granted a temporary authorization for the sale of 1.4 billion Mcf of natural gas on November 18, 1966 in Docket No. CI67–505.

Applicant proposes to install approximately 114 miles of 30-inch pipeline, a purchase meter station and miscellaneous other facilities appurtenant thereto, at an estimated total cost of $19,463,000. Applicant states that it will finance this cost with funds to be obtained through interim and permanent financing.

After due notice, petitions to intervene in support of the application were filed by The Peoples Gas Light and Coke Company (Peoples Gas) and North Shore Gas Company on December 27, 1965. Iowa Electric Light and Power Company by telegram received by the Commission on December 27, 1965, stated its petition to intervene was not in opposition to Commission disposition of the application under its abbreviated procedures. No other petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on December 1, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and supplement thereto and exhibits submitted in support of the authorization sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, Natural Gas Pipeline Company of America, a Delaware corporation having its principal place of business in Chicago, Illinois, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of November 7, 1958, in Docket No. G–9966 (20 FPC 694).

(2) The proposed construction and operation of facilities, and the transportation of natural gas in interstate commerce, as more fully described in the application filed in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed construction and operation of facilities, and the transportation of natural gas in interstate commerce are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, Natural Gas Pipeline Company of America, authorizing the construction and operation of the facilities, and the transportation of natural gas as hereinbefore described, all as more fully described in the application, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

(C) The proposed facilities shall be completed and the transportation of gas authorized in paragraph (A) above shall commence as provided in paragraph (b) of Section 157.20 of the aforesaid Regulations within 1 year of the date on which this order issues.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

TENNESSEE GAS PIPELINE COMPANY, A DIVISION OF TENNECO INC., DOCKET NO. CP67-78

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued December 6, 1966)

On September 23, 1966, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), filed in Docket No. CP67-78 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of an additional delivery point for the delivery of natural gas to The Manufacturers Light and Heat Company (Manufacturers), an existing customer, to enable Manufacturers to meet the requirements of its northwestern Pennsylvania market area during the 1966-67 winter heating season and thereafter, all as more fully set forth in the application.

Specifically, Applicant proposes to construct and operate a mainline tap and appurtenant metering facilities on its 30-inch pipeline in Highland Township, Elk County, Pennsylvania.

Deliveries of natural gas by Applicant to Manufacturers at the new point will be made from Applicant's current authorized allocation to Manufacturers.

The gas to be delivered through the new facilities will be purchased under Applicant's Rate Schedule CD-4, which is the applicable rate schedule for present sales and deliveries to Manufacturers.

The total estimated cost of Applicant's proposed facilities is $24,713, which cost will be financed from current operating funds.

After due notice, no petition to intervene, notice of intervention or protest has been filed herein.

At a hearing held on December 1, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., a Delaware corporation with its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act as

heretofore found by the Commission in its order of July 15, 1947 in Docket No. G-910 (6 FPC 777).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., authorizing construction and operation of the facilities hereinbefore described, as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be constructed and placed in actual operation, as provided by paragraph (b) of Section 157.20 of the Regulations under the Natural Gas Act, within 3 months from the date on which this order issues.

(D) Applicant shall file with the Commission a revised service agreement with Manufacturers reflecting the facilities and service authorized herein.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

TEXAS GAS TRANSMISSION CORPORATION, DOCKET NO. CP66-149 (PHASE I)

FINDINGS AND ORDER FURTHER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued December 6, 1966)

On September 26, 1966, Texas Gas Transmission Corporation (Applicant) filed in Docket No. CP66-149 (Phase I) an application to amend further the Commission's order issued April 12, 1966, 35 FPC 493, in said docket, as amended by order issued July 12, 1966, 36 FPC 55, by authorizing in Applicant's Zone 2 an increase of 940 Mcf in the contract demand of an existing customer, Western Kentucky Gas Company (Western Kentucky), all as more fully set forth in the application to amend further.

The order of April 12, 1966, authorized Applicant, among other things, to construct and operate certain facilities and to increase the contract demands of certain of its existing customers. That order authorized Applicant to sell and deliver to Western Kentucky 34,500 Mcf of gas on a contract demand basis for the 1966–67 winter heating season in Zone 2.

Specifically, at Western Kentucky's request, Applicant now proposes to increase the former's contract demand in Zone 2 by 940 Mcf to a total of 35,440 Mcf. No new facilities will be required to render the proposed increased service.

Due notice of the filing of the application to amend further and opportunity for hearing thereon has been given by publication in the Federal Register on October 13, 1966 (31 F.R. 13255). No protest or petition to intervene has been filed in this proceeding.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's order issued April 12, 1966, in Docket No. CP66–149 (Phase I), as amended on July 12, 1966, be further amended as hereinafter ordered.

The Commission orders:

(A) The Commission's order issued April 12, 1966, in Docket No. CP66–149 (Phase I), as amended on July 12, 1966, is further amended by authorizing Applicant in its Zone 2 to increase by 940 Mcf the contract demand of Western Kentucky, commencing with the 1966–67 winter heating season, thereby increasing Western Kentucky's contract demand for Zone 2 from 34,500 Mcf to 35,440 Mcf, all as hereinbefore described and as set forth in the application to amend further.

(B) In all other respects said order, as amended, shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

TRANSWESTERN PIPELINE COMPANY, DOCKET NO. CP67–105

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued December 6, 1966)

On October 20, 1966, Transwestern Pipeline Company (Applicant) filed in Docket No. CP67–105 a "budget-type" application pursuant to Section 7(c) of the Natural Gas Act, as implemented by Section 157.7(b) of the Regulations under the Act, for a certificate of public convenience and necessity authorizing the construction during the calendar year 1967 and operation of certain natural gas purchase facilities, all as more fully set forth in the application.

Applicant proposes to construct, relocate, alter and operate during the calendar year 1967, certain routine field facilities to augment its ability to make, with a minimum of delay, alterations in and additions to its existing facilities and to permit the connection to its pipeline system new supplies of natural gas in various producing areas adjacent to said system.

The total estimated cost of Applicant's proposed facilities will not exceed $1,500,000, and no single project will exceed a cost of $375,000. Said costs will be financed from funds made available to Applicant through its operations.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on December 1, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Transwestern Pipeline Company, a Delaware corporation with its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order issued on August 10, 1959, in Docket No. G–14871, *et al.* (22 FPC 391).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Applicant should submit within 60 days after the expiration of the authorization granted hereinafter, a statement in compliance with subparagraph (3) of Section 157.7(b) of the Commission's Regulations under the Natural Gas Act.

(6) Public convenience and necessity require that the certificate hereinafter issued and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e), (f) and (g) of Section 157.20 of said Regulations.

(7) The authorization hereinafter granted should be limited to construction during the calendar year 1967 and the total expenditures for facilities to be constructed thereunder should be limited to a maximum of $1,500,000, with no single project to exceed a cost of $375,000.

The Commission orders:

(A) Upon the terms and conditions of this order, a certificate of public convenience and necessity is issued authorizing Applicant, Transwestern Pipeline Company, to construct during the calendar year 1967, the proposed facilities hereinbefore described, as more fully described in the application in this proceeding, and to operate such facilities only to take natural gas supplies from producers who have received authorization from the Commission to sell natural gas to said Applicant.

(B) Applicant shall submit within 60 days after the expiration of the authorization granted by paragraph (A) above a statement in compliance with subparagraph (3) of Section 157.7(b) of the Commission's Regulations under the Natural Gas Act.

(C) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms set forth in paragraphs (a), (e), (f) and (g) of Section 157.20 of said Regulations.

(D) The authorization granted in paragraph (A) above is not to be construed as authorization to attach new customers or to increase the volume of sales to existing jurisdictional customers.

(E) The authorization issued hereby does not alter, amend or modify the condition as to the amount to be included for prepaid gas in rate determinations set forth in ordering paragraph (E) of the Commission's order issued July 26, 1966, accompanying Opinion No. 500, in Docket No. CP63-204, *et al.*, 36 FPC 176.

(F) The authorization granted in paragraph (A) above is limited to construction during the calendar year 1967, and the total expenditures for facilities to be constructed thereunder are limited to a maximum of $1,500,000, with no single project to exceed a cost of $375,000.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

UNITED GAS PIPE LINE COMPANY, DOCKET NO. CP67-21

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued December 6, 1966)

On July 28, 1966, United Gas Pipe Line Company (Applicant), filed in Docket No. CP67-21 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities for the sale and delivery of additional natural gas to the Town of Rayville (Rayville), Richland Parish, Louisiana, to meet the additional requirements of Rayville's electric generating plant as set out in Applicant's contract with Rayville, all as more fully set forth in the application.

Applicant seeks authorization for the installation and operation of the following:

Dual 500-B metric meters, together with appurtenant equipment, located at the Rayville, Town Border Station site, Rayville, Louisiana, replacing existing dual No. 4 Emco meters.

Applicant proposes to increase from 1,000 to 1,750 Mcf per day its deliveries of natural gas to the Town of Rayville.

The estimated net cost of Applicant's proposed facilities is $4,076, and will be financed out of current working funds.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on December 1, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, and exhibits submitted in support of the authorization, and upon consideration of the record,

The Commission finds:

(1) Applicant, United Gas Pipe Line Company, a Delaware corporation having its principal place of business in Shreveport, Louisiana, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of November 10, 1942, in Docket No. G–232 (3 FPC 863).

(2) The proposed construction and operation of facilities and transportation and delivery of natural gas as hereinbefore described, and as more fully described in the application, and exhibits in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed construction and operation of facilities and transportation and delivery of natural gas are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to the Applicant in this proceeding, authorizing the construction and operation of facilities and transportation and delivery of natural gas as hereinbefore described and as more fully described in the application and exhibits in this proceeding, subject to the jurisdiction of the Commission, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

(C) The facilities hereby authorized shall be constructed and placed in actual operation and transportation of natural gas authorized in paragraph (A) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, by January 1, 1967.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

CITY OF MARIETTA, TEXAS AND NATURAL GAS PIPELINE COMPANY OF AMERICA, DOCKET NO. CP67–18

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued December 7, 1966)

On July 25, 1966, the City of Marietta, Texas (Applicant), filed in Docket No. CP67–18 an application, as supplemented on August 30 and October 13, 1966, pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing the Natural Gas Pipeline Company of America (Respondent), to establish physical connection of its transportation facilities with the facilities proposed to be constructed by Applicant and to sell and deliver to Applicant volumes of natural gas for resale and distribution in the City of Marietta, and the communities of Bryans Mill, Piney Grove, Laws Chapel, Bivins and adjacent areas, all located in Cass County, Texas, all as more fully set forth in the application.

Applicant proposes that Respondent make physical connection of its transportation facilities with Applicant's proposed distribution facilities at a point where said transportation facilities cross Texas Highway No. 77 approximately 1 mile west of Douglassville, Texas. Applicant's proposed distribution system will extend from said point of physical connection to the above referenced communities. The pipeline to said communities will be used to serve customers along its route.

The total estimated volumes of natural gas necessary to meet Applicant's annual and peak day requirements in the third year of proposed operations are 65,000 and 800 Mcf, respectively.

The estimates of Applicant's natural gas requirements are based on an assumed attachment of 574 residences, 28 commercial establishments, 1 plant farm, 2 sawmills, 2 schools and 12 churches.

The proposed natural gas service will be rendered to Applicant under Respondent's effective FPC Rate Schedule G-1 which specifies a rate of 34.74 cents per Mcf at 14.65 psia.

Applicant estimates the cost of its proposed distribution system at $557,000, which cost is proposed to be financed through the implementation of an agreement dated June 16, 1966, between Applicant and the Department of Housing and Urban Development. Said agreement covers a system cost of $616,000, and is based on a proposed project including natural gas service to Douglassville, Texas, which community has since been eliminated from the instant proposal. The agreement is conditioned upon the obtaining of a $28.00 deposit from 525 prospective residential consumers and $50.00 deposits from each of the above referenced schools and commercial establishments.

After due notice, no protest, petition to intervene or notice of intervention has been filed herein.

Respondent has filed no objection to the issuance by the Commission of an order as requested by Applicant.

The Commission finds:

(1) Respondent, Natural Gas Pipeline Company of America, a Delaware corporation having its principal place of business in Chicago, Illinois, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of October 13, 1942, in Docket No. G-235 (3 FPC 830).

(2) Applicant, City of Marietta, Texas, is a municipal corporation organized and incorporated under the laws of the State of Texas and is legally empowered to construct and operate natural gas facilities and to sell and distribute natural gas in said city.

(3) It is necessary and desirable in the public interest that Respondent be directed to establish physical connection of its natural gas transportation system with the proposed facilities of Applicant and to sell and deliver up to 800 Mcf of natural gas per day to Applicant, as set forth in the application, as supplemented, and as hereinafter ordered and conditioned.

(4) This order should be conditioned as follows:

(a) Applicant shall be prepared to receive natural gas from Respondent, as proposed, within one year from the date on which this order issues;

(b) Applicant shall provide evidence that it has met the provision of paragraph 2 of Exhibit B to its loan agreement of June 16, 1966, with the Department of Housing and Urban Development; and

(c) Applicant shall enter into a service agreement with Respondent, which agreement shall be filed by Respondent in conformity with the Commission Regulations.

(5) The requirement that Respondent serve Applicant, as requested, will not place an undue burden upon Respondent nor impair its ability to render adequate service to existing customers.

The Commission orders:

(A) Respondent is directed to establish physical connection of its natural gas transmission system with the facilities to be constructed by Applicant and to sell and deliver up to 800 Mcf of natural gas per day to Applicant, all as hereinbefore described and as more fully described in the application, as supplemented.

(B) The order issued by paragraph (A) above is conditioned as follows:

(1) Applicant shall be prepared to receive natural gas from Respondent, as proposed, within one year from the date on which this order issues;

(2) Applicant shall provide evidence that it has met the provision of paragraph 2 of Exhibit B to its loan agreement of June 16, 1966, with the Department of Housing and Urban Development; and

(3) Applicant shall enter into a service agreement with Respondent, which agreement shall be filed by Respondent in conformity with the Commission Regulations.

(C) Respondent shall notify the Commission of the commencement of service within 10 days thereof.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

THE DETROIT EDISON COMPANY, DOCKET NO. E-7318

SUPPLEMENTAL ORDER AUTHORIZING ISSUANCE OF GENERAL AND REFUNDING MORTGAGE BONDS

(Issued December 8, 1966)

By order issued November 29, 1966, 36 FPC 909, in the above-entitled matter, the Commission authorized The Detroit Edison Company (Applicant) to issue and sell at competitive bidding $100,000,000, principal amount of General and Refunding Mortgage Bonds, due 1996, subject among others, to the provisions set forth in paragraph (B) of that order as follows:

(B) The proposed issuance and sale of Bonds at competitive bidding shall not be consummated until:

(i) Applicant shall have amended its application pursuant to the requirements of Section 34.2(g) of the Commission's Regulations under the Federal Power Act relating to compliance with competitive bidding requirements, and Section 34.2(h)(1) of those Regulations relating to affiliation, and shall have either filed such amendments or shall have mailed them and advised the Commission by telephone and telegraph, as contemplated in Section 34.9 of the Regulations.

(ii) The Commission, by further order, shall have approved the price to be received by Applicant for the proposed issuance of Bonds and the interest rate thereof.

Applicant on December 8, 1966, filed an amendment, pursuant to the requirements of the aforementioned Commission order, setting forth, among other things, that it proposes to accept as providing the lowest annual cost of money to it, the bid of The First Boston Corporation and Halsey, Stuart & Co., Inc., to purchase the proposed issuance of $100,000,000, principal amount of Bonds, for the price of 99.26% of principal amount, with an interest rate of 6%.

The Commission finds:

(1) Applicant has satisfactorily complied with the requirements of paragraph (B) of the Commission's order issued November 29, 1966, in the above docket, and under the bid it proposes to accept for the Bonds, the price to be received by Applicant therefor and the interest rate thereof are reasonable.

(2) The proposed issuance and sale of Bonds, as hereinafter authorized, will be for a lawful object, within the corporate purposes of the Applicant and compatible with the public interest, which is appropriate for and consistent with the proper performance by the Applicant of service as a public utility and which will not impair its ability to perform that service, and is reasonably appropriate for such purposes.

The Commission orders:

(A) The price to be received by Applicant for the proposed Bonds and the interest rate thereof under the bid referred to above, are approved as reasonable.

(B) The proposed issuance and sale of Bonds referred to above upon the terms and conditions and for the purposes specified in the application, as supplemented by the amendment referred to above, are authorized, subject only to the provisions of paragraphs (A), (C), (D) and (E) of the Commission's order issued November 29, 1966, in the above docket.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

NORTHERN NATURAL GAS COMPANY, DOCKET NO. CP65-196; AMERICAN GAS COMPANY OF WISCONSIN, INC., RP67-4; GREAT PLAINS NATURAL GAS COMPANY, RP67-6; MIDWEST NATURAL GAS, INC., RP67-7

ORDER AMENDING ORDER, ACCEPTING SETTLEMENT AGREEMENT AND TERMINATING PROCEEDINGS

(Issued December 8, 1966)

American Gas Company of Wisconsin, Inc., (American Gas) on July 29, 1966, and Great Plains Natural Gas Company (Great Plains) and Midwest Natural Gas, Inc., (Midwest) on August 8, 1966, filed petitions pursuant to Section 1.7

of the Commission's Rules of Practice and Procedure requesting that the Commission issue an order authorizing Northern Natural Gas Company (Northern) to reduce the first year contract demands prescribed for said Petitioners in Opinion No. 491, and accompanying order issued May 25, 1966, 35 FPC 790, in Docket No. CP65-196. In support thereof, Petitioners, among other things, set out that there was insufficient time between the time of certification and the period of maximum requirements to fully construct the facilities and distribution systems to receive and distribute the entire first year contract demand by October 27, 1966, the date on which Northern was authorized by the aforementioned order to begin deliveries.

Following conferences with Petitioners and the Staff, Northern, on October 26, 1966, filed a proposed settlement of the issues involved. The Agreement executed by all parties provides that (1) the aforementioned contract demand as authorized to each of the Petitioners in Opinion No. 491, shall become effective as of January 27, 1967, rather than October 27, 1966, as provided in said Opinion; (2) during the interim period from October 27, 1966 through January 26, 1967, Northern shall provide all firm and small volume requirements of Petitioners at the Zone B commodity rate of 25.21 cents per Mcf, but, in addition, Northern shall permit Petitioners to connect and serve large volume customers, but such service shall be subject to interruption, and (3) except for the aforementioned changes, all requirements of Opinion No. 491 shall be binding upon the parties. The Commission construes this filing as a petition to amend the authorization granted by Opinion No. 491.

Since Northern has no rate schedule on file applicable to the service proposed during the interim period, Northern requests that the tendered agreement be accepted for filing as a special rate schedule, that the Commission's Regulations be waived and that the schedule be permitted to become effective as of October 27, 1966. The tender was duly noticed (31 F.R. 14424) and no protests have been received.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act (1) that Opinion No. 491 and accompanying order issued in Docket No. CP65-196 be amended as hereinafter set out; (2) that the Settlement Agreement be accepted for filing as a special rate schedule and be permitted to be effective as of October 27, 1966; and (3) that Docket Nos. RP67-4, RP67-6 and RP67-7 be terminated.

The Commission orders:

(A) The Settlement Agreement filed by Northern in Docket Nos. RP67-4, RP67-6 and RP67-7 is hereby accepted for filing, to be effective as hereinafter provided.

(B) Opinion No. 491, issued May 25, 1966, in Docket No. CP65-196, is hereby amended to permit the operations of the facilities therein certificated so as to conform to the specifications of this order and as more explicitly set out in the aforementioned Settlement Agreement.

(C) The Settlement Agreement tendered on October 26, 1966, in Docket Nos. RP67-4, RP67-6 and RP67-7, is accepted for filing as a special rate schedule to be effective as of October 27, 1966.

(D) All other provisions of the order accompanying the aforementioned Opinion No. 491 shall remain unchanged.

(E) The proceedings in Docket Nos. RP67-4, RP67-6 and RP67-7 are hereby terminated.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

PANHANDLE EASTERN PIPE LINE COMPANY, DOCKET NO. CP63-159

ORDER AMENDING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued December 8, 1966)

On May 25, 1966, Panhandle Eastern Pipe Line Company (Petitioner) filed in Docket No. CP63-159 a petition to amend the certificate of public convenience and necessity issued in the order accompanying Opinion No. 410 in said docket on November 12, 1963, 30 FPC 1260, requesting authorization for the transportation of natural gas for the purpose of hydrocarbon extraction by National Helium Corporation (National) at its plant located in the vicinity of Liberal, Kansas, all as more fully set forth in the petition to amend.

Petitioner entered into a contract dated October 2, 1961, to provide National with volumes of gas for the extraction of helium and hydrocarbons and for fuel and National, in turn, entered into a contract dated October 13, 1961, with the United States pursuant to the Helium Act amendments of 1961, providing for the supply of a helium-gas mixture to be used in the government's helium conservation program.

Following hearings before the Commission, Petitioner received a certificate of public convenience and necessity, issued in the instant docket on November 12, 1963, for the transportation of fuel to National's plant, conditioned, *inter alia*, upon Petitioner seeking authorization to transport natural gas for the purpose of hydrocarbon extraction to be performed by National.

Because of the condition referred to above, Petitioner declined to accept the authorization granted by the aforementioned certificate and sought rehearing and court review of the Commission's order. On April 27, 1966, the United States Court of Appeals for the Eighth Circuit affirmed the Commission's order in *Panhandle Eastern Pipe Line Company* v. *Federal Power Commission*, 359 F. 2d 675.

By the instant filing, Petitioner requests authorization for the transportation of natural gas for the purpose of hydrocarbon extraction by National at its plant located in the vicinity of Liberal, Kansas.

In 1963, National, a company jointly owned by Petitioner and National Distillers Corporation, completed construction of its helium extraction plant near Liberal, Kansas, and adjacent to Petitioner's pipeline system.

The cryogenic process resulting in the removal of helium involves the liquefaction and subsequent regasification of hydrocarbons in the natural gas stream flowing through the helium extraction plant. Although National's plant was designed basically to process 850,000 Mcf of gas per day, removing or shrinking the total throughput volume by an estimated 18,000 Mcf per day, actual experience indicates that the plant can process in excess of 1,000,000 Mcf of gas per day with an average shrinkage of 22,000 Mcf per day and a peak shrinkage of 27,000 Mcf per day. Petitioner estimates that the annual shrinkage will total 8,000,000 Mcf of gas as compared with 6,500,000 set forth in its original application.

Petitioner delivers gas to National immediately up-stream of the Liberal Compressor Station. After processing the gas, National normally returns to Petitioner all of the methane, ethane, and nitrogen and sufficient amounts of propane and butane to maintain a predetermined Btu level.

In the first full paragraph of Opinion No. 410 (30 FPC 1260) the Commission indicated that consideration of a higher payment by National to Petitioner for both fuel and shrinkage, with a consequent rate reduction to Petitioner's customers, should await a more complete record made in hearing upon any application filed by Petitioner to transport the shrinkage volume. Further consideration of this issue is unwarranted at this time in that Panhandle's present rates, resulting from a settlement approved in Docket No. RP66-21 on February 24, 1966, 35 FPC 258, reflect an allocation of cost to the sale to National substantially more than the contract price of 35 cents per Mcf. In return, the settlement agreement provided that so long as the rates provided for in that agreement shall remain in effect no further adjustment shall be made in Petitioner's rates or tariff on the basis of the effect of Petitioner's deliveries to National, as a result of any certificate proceeding which might be held if Opinion No. 410 and order issued November 12, 1963, were upheld on appeal.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's order issued in the instant docket on November 12, 1963 (Opinion No. 410), be amended as hereinafter ordered and conditioned.

The Commission orders:

(A) The Commission's order issued on November 12, 1963 (Opinion No. 410), is amended so as to authorize Petitioner to transport natural gas through its existing facilities for the purpose of permitting National Helium Corporation to extract hydrocarbons therefrom in an amount not to exceed 27,000 Mcf per day or 8,000,000 Mcf per year, all as more fully described hereinabove.

(B) The authorization granted in paragraph (A) above is conditioned as follows:

(1) The delivery of natural gas to National shall be subject to interruption as necessary to maintain firm deliveries to all jurisdictional customers.

(2) The delivery of natural gas by Petitioner to National is limited to 1,025,000 Mcf per day and the redelivery by National to Petitioner shall be no less than 1,025,000 Mcf per day less shrinkage.

(3) During the period in which Petitioner's rates provided for in the Commission's order of February 24, 1966, in Docket No. RP66-21 shall remain in effect, if for any calendar year the annual average heating value of Petitioner's sales to jurisdictional customers shall be less than 982 Btu per cubic foot, then for each Btu below such 982 average, Petitioner shall, during the next following calendar year, apply to the commodity component of its jurisdictional billings, a downward adjustment equal to one-tenth of one percent of such component.

(C) In all other respects the subject order shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

PANHANDLE EASTERN PIPE LINE COMPANY, DOCKET NO. CP65-87

ORDER AMENDING ORDER AUTHORIZING EXPORTATION OF NATURAL GAS

(Issued December 8, 1966)

On September 13, 1966, Panhandle Eastern Pipe Line Company (Panhandle) filed in Docket No. CP65-87, as supplemented on October 17, 1966, an applica-

tion to amend the Commission's order issued February 4, 1965, as clarified and modified on April 29, 1965, 33 FPC 180, 903, in said docket to authorize the exportation of additional quantities of natural gas from the United States to Canada for sale to the Union Gas Company of Canada, Limited (Union Gas), all as more fully set forth in the application to amend, as supplemented, in this proceeding.

Pursuant to orders issued on April 23 and August 20, 1946, 5 FPC 472, 718, in Docket No. G-612, on April 23, 1946, in Docket No. G-619, 5 FPC 476, on February 4 and April 29, 1965, in Docket No. CP65-87 and pursuant to permits issued in Docket Nos. G-611 and G-10798, Panhandle was authorized to construct and operate facilities under the Detroit River to connect the Union Gas' facilities at the Canadian border and to export up to 15,500,000 Mcf of natural gas per year for sale and delivery to Union Gas. Panhandle now seeks authorization to export, by means of the existing facilities, additional quantities of natural gas for sale to Union Gas in accordance with a contract, dated August 26, 1966. The term of the contract is for a one year period from and including September 1, 1966, and from year to year thereafter until terminated by written notice given by one party to the other at least sixty days prior to the end of any such yearly period. Panhandle proposes to export and sell to Union Gas up to an additional 50,000 Mcf of natural gas per day on an interruptible basis during the seasonal period September through April. These winter deliveries will be completely interruptible on a daily basis and curtailable to the extent of 75 percent of the total seasonal deliveries which are limited to 8,000,000 Mcf.

On October 18, 1966, Panhandle filed an application in Docket No. G-10798 for further amendment of the related amended permit, as further amended, issued November 8, 1965, in such docket.

Notice of the filing of the instant application to amend was issued on September 20, 1966. This notice fixed October 17, 1966, as the last day for filing protests or petitions to intervene. On October 14, 1966, Union Gas filed a petition to intervene in support of the application. No protest or other petition to intervene has been filed in this proceeding. Opportunity for hearing has been given by the issuance of said notice and the publication thereof in the Federal Register on September 27, 1966 (31 F.R. 12652).

The Commission finds:

(1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the Commission's order issued February 4, 1965, as clarified and modified on April 29, 1965 in Docket No. CP65-87, be amended as hereinafter ordered.

(2) The proposed exportation of additional quantities of natural gas by Applicant, Panhandle Eastern Pipe Line Company, as hereinabove described and as set forth in the application to amend, as supplemented, in Docket No. CP65-87, will not be inconsistent with the public interest within the meaning of Section 3 of the Natural Gas Act provided that said exportation be on the terms and conditions hereinafter set forth:

(a) Panhandle shall file annually, by March 31, a report for the previous year's operations pursuant to the authorization issued hereinafter, showing in Mcf at 14.73 psia the annual and peak day volumes delivered to and the total dollars and rate per Mcf received from Union. Panhandle shall file statements or reports with the Commission from time to time under oath and in such details as the Commission may require with respect to the whole or any part of the instant export operation.

(b) The authorization granted herein is not transferable or assignable and shall remain in full force and effect only so long as Panhandle continues the acts or operations herein authorized in accordance with the terms and conditions herein set forth.

(c) The authorization granted hereinafter for the exportation of the proposed additional quantities of natural gas shall automatically terminate upon the termination or expiration of the August 26, 1966 contract, attached as an exhibit to the application to amend in this proceeding, and, upon such termination, Panhandle shall forthwith notify the Commission in writing of the fact and date of said termination.

(d) Panhandle shall not, during the term of the authorization granted by this order, materially change or alter its export operations without first obtaining the permission and approval of the Commission.

(e) In the event that Panhandle should abandon or permanently cease for any reason whatsoever all or any part of the instant export operation prior to the termination date of the contract described in (c) hereof, Panhandle shall forthwith notify the Commission of said fact and the reason therefor.

(f) The maximum seasonal (September through April) volume and maximum daily volumes exported for sale to Union Gas should not exceed 8,000,000 Mcf and 50,000 Mcf, respectively, under the instant authorization.

(g) The export authorization hereinafter issued is granted on the express condition that the interruptible service authorized should be subject to any curtailment or interruption required to meet existing or future contracted maximum delivery obligations of Panhandle for firm service to its customers.

The Commission orders:

(A) The Commission's order issued February 4, 1965, as clarified and modified on April 29, 1965, in Docket No. CP65-87 is amended to authorize Panhandle to export additional quantities of natural gas from the United States to Canada for sale to Union Gas, as hereinabove described and as set forth in the application to amend, as supplemented, in this docket, upon the conditions set forth in Finding (2), above, and subject to the provisions of the Natural Gas Act and the Commission's Regulations issued thereunder.

(B) Panhandle shall inform the Commission of the date of commencement of service under the instant authorization within 20 days thereof.

(C) The related amended permit, as further amended, is released concurrently with the issuance of this order.

Before Commissioners: L. J. O'Connor, Jr., Acting Chairman; Charles R. Ross and John A. Carver, Jr.

ST. LAWRENCE GAS COMPANY, INC., DOCKET NO. G-17500

ORDER AMENDING ORDER AUTHORIZING THE IMPORTATION OF NATURAL GAS

(Issued December 8, 1966)

On June 21, 1966, St. Lawrence Gas Company, Inc. (Petitioner) filed in Docket No. G-17500, as supplemented on October 4, 1966, a petition to amend the Commission's order issued August 8, 1961, 26 FPC 265, in said docket, by authorizing Petitioner, by means of existing facilities at the international boundary, to import from Canada into the United States maximum annual and daily quantities of natural gas in amounts of 5,519,987 Mcf and 23,000 Mcf, respectively, in lieu of the present maximum quantities authorized by the order of August 8, 1961, all as more fully set forth in the petition to amend in this proceeding.

The order of August 8, 1961, among other things, authorized Petitioner to import natural gas from Canada, which gas was to be purchased from Niagara Gas Transmission, Limited (Niagara). Niagara purchases from Trans-Canada Pipe Lines, Limited (Trans-Canada) the gas sold to and imported by Petitioner. Ordering paragraph (A) of that order limited maximum annual and daily quantities of gas to be imported to 3,765,700 Mcf and 16,710 Mcf, respectively. In order to meet its increasing natural gas requirements, Petitioner now proposes to purchase from Niagara and import additional quantities of natural gas. Accordingly, Petitioner requests that ordering paragraph (A) of the order of August 8, 1961, be amended to authorize the importation of maximum annual and daily quantities of natural gas in the amounts of 5,519,987 Mcf and 23,000 Mcf, respectively.

Petitioner and Niagara have entered into a gas purchase contract, dated April 19, 1966, providing for the sale of the quantities of natural gas herein proposed to be imported. Niagara will purchase from Trans-Canada the additional quantities of gas to be sold to Petitioner.

The existing facilities at the international boundary to be utilized for the subject importation were authorized by a permit issued October 20, 1961, in Docket No. G–17501.

Notice of the filing of the instant petition to amend was issued on July 1, 1966. This notice fixed July 29, 1966, as the last day for filing protests or petitions to intervene. No protests or petitions to intervene have been filed in this proceeding. Opportunity for hearing has been given by the issuance of said notice and the publication thereof in the Federal Register on July 13, 1966 (31 F.R. 9514).

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the Commission's order issued August 8, 1961, in Docket No. G–17500 be amended as hereinafter ordered.

The Commission orders:

(A) Ordering paragraph (A) of the Commission's order issued August 8, 1961 in Docket No. G–17500, is amended to authorize Petitioner to import from Canada into the United States maximum annual and daily quantities of natural gas in the amounts of 5,519,987 Mcf and 23,000 Mcf, respectively, in lieu of the heretofore authorized maximum annual quantity of 3,765,700 Mcf and maximum daily quantity of 16,710 Mcf, all as hereinbefore described and as set forth in the petition to amend in this proceeding.

(B) In all other respects said order shall remain in full force and effect.

(C) The authorization granted in paragraph (A) above is conditioned upon, and Petitioner shall submit to the Commission evidence of, issuance of any related export authorization by the National Energy Board of Canada to Niagara.

OPINION NO. 502-A

SUN OIL COMPANY, ET AL., DOCKET NO. G-8592, ET AL.

MEMORANDUM OPINION AND ORDER CONFIRMING ORDER REQUIRING REFUNDS AND DENYING MOTIONS FOR STAY

(Issued December 8, 1966)

Syllabus

1. There is no reason to incur expense and delay of evidentiary hearing where, as here, parties seek to prove no facts which would change Commission's judgment. P. 1004.
2. Commission *confirms* prior order requiring refunds; *denies* rehearing and motions for stay.

Commissioner O'Connor *dissenting.*

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

On July 28, 1966, 36 FPC 317, the Commission issued Opinion No. 502 and its accompanying order in this proceeding, requiring refunds by seven natural gas producers of a part of the amounts collected by them in excess of the 20.6 cents per Mcf later determined to be the proper initial rate in the State of Mississippi. These excess amounts were collected while operating under temporary certificates without express refund conditions. Because a balancing of the equities indicated that refunds in full should not be ordered, no refunds were required of certain excess amounts collected but later disbursed in production tax payments which cannot be recouped or in royalty payments. In the case of Sun Oil Company, refunds were not required for the period prior to October 1, 1964, by reason of the terms of any earlier settlement. Applications for rehearing were filed by General American Oil Company of Texas (General American), Humble Oil & Refining Company (Humble), Texaco Inc., and The California Company, a Division of Chevron Oil Company (Calco). General American and Humble also moved to stay the ordering clauses of Opinion No. 502. By order issued September 9, 1966, we granted rehearing for the purpose of reconsideration.

We have found nothing in the applications for rehearing which would cause us to alter our prior determinations. Certain arguments of the applicants, however, deserve comment.

Calco states that Opinion No. 502 contains no discussion of Calco's specific sale or the other sales dealt with in that opinion, but relies solely on prior opinions of the Commission to which Calco was not a party and by which it cannot be bound. Calco and other applicants are not being held responsible for refunds in this proceeding on the basis of facts established in other proceedings. Calco and the other applicants herein have had full opportunity to set forth any facts and any evidence which they wish to present with respect to their particular circumstances. Calco has alleged no facts which would differentiate its case from those cited in Opinion No. 502. These cases were cited as established precedents applicable to the facts in this proceeding, and not as establishing the facts in this proceeding. See *Amerada Petroleum Corporation, et al.*, Opinion No. 501-A, *supra*, p. 962 at p. 964.

Texaco Inc. and Humble urge that an evidentiary hearing is required. They state (Humble application page 5, Texaco application pages 2-3): "Contrary to the statement contained at p. 318 of Opinion No. 502 that 'producers here were given full opportunity to submit briefs and statements of facts and *evi-*

dence which might bear upon the equities' [Emphasis supplied], no evidentiary hearing as contemplated by Opinion No. 445 was convened."

The applicants herein were offered full opportunity to furnish statements of the evidence which they wish to present as well as statements of any facts which would militate against refunds being required. No evidentiary hearing was convened because the facts alleged and statements of evidence put forward by these applicants were considered by the Commission to be not sufficient, if presented at a hearing, to change the determination reached by the Commission in Opinion No. 501.

In the present case there is no reason to incur the expense and delay of evidentiary hearings when the parties seek to prove no facts which would change the judgment of the Commission. For purpose of our determination in proceedings such as this we assume the facts to be as the applicants state, and we assume that the evidence they asked to introduce is before the Commission as though it had been introduced at a hearing, to the extent that such evidence would be relevant and admissible. Under these circumstances we think it possible for the Commission to reach a final determination without the formality of a hearing which would add nothing to aid our determinations.

No good ground for stay of the ordering clauses of Opinion No. 502 has been shown. *H. L. Hawkins & H. L. Hawkins, Jr. (Operator), et al.*, Opinion No. 498–A, *supra*, p. 981 at p. 985; *Amerada Petroleum Corporation, et al.*, Opinion No. 501–A at p. 965.

The Commission finds:

(1) The assignments of error and application for rehearing present no facts or legal principles which should warrant any change in or modification of the Commission's Opinion No. 502 in this proceeding, issued July 28, 1966.

(2) No good cause exists for granting the motions for stay of the ordering paragraphs of said Opinion No. 502.

The Commission orders:

(A) Opinion No. 502 and its accompanying order issued July 28, 1966, is in all respects confirmed.

(B) The relief requested on rehearing in the applications for rehearing filed in this proceeding is hereby denied.

(C) The motion for stay of the ordering paragraphs of Opinion No. 502 is denied.

(D) The extension of time to December 28, 1966, heretofore granted by the Secretary for filing the reports required by paragraph (A) of Opinion No. 502 and order issued July 28, 1966, is hereby confirmed.

Commissioner O'Connor *dissenting* in accordance with his dissent to Opinion No. 502, and would grant evidentiary hearings if necessary to establish the equities alleged by the Applicants.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

GULF STATES UTILITIES COMPANY, DOCKET NO. E-7315

ORDER AUTHORIZING THE ISSUANCE OF SECURITIES

(Issued December 9, 1966)

Gulf States Utilities Company (Applicant), a corporation organized under the laws of the State of Texas and doing business in the States of Texas and

Louisiana, with its principal business office at Beaumont, Texas, filed an application on October 14, 1966, for authorization pursuant to Section 204 of the Federal Power Act, to issue unsecured short-term Promissory Notes in the principal amount up to an aggregate of $31,000,000 outstanding at any one time. The Notes are to be issued to: (1) commercial banks and (2) in the form of commercial paper to commercial paper dealers.

The proposed Notes will be issued to evidence loans from Irving Trust Company and The Chase Manhattan Bank, both of New York, New York, pursuant to credit agreements dated May 31, 1966 and May 25, 1966, respectively, between Applicant and the two banks, under which agreements Applicant may borrow or reborrow at any time during the period from July 1, 1966 to December 31, 1966, inclusive, up to a total principal amount of $28,000,000 on notes which will mature on December 31, 1966. Under more recent agreements dated October 28 and 31, 1966, respectively, with the foregoing banks, Applicant is permitted to obtain unsecured loans up to an aggregate of $21,000,000 at any one time outstanding during the period from December 31, 1966 to December 31, 1967, on notes which will mature on December 31, 1967. The notes are to bear interest at the New York prime rate in effect at the time of the borrowings.

Applicant also plans to issue promissory notes in the form of commercial paper at a discount to banking firms that are engaged in the buying and selling of commercial paper. The banking firms will, in turn, offer the commercial paper for sale to investors at a price that will provide the buyer with a lower yield. The difference will constitute a commission to the banking firms. The discount rate will be dependent upon the length of time the notes are to be outstanding and money market conditions. All commercial paper will have a maturity of not more than nine months from the date of its issuance and the aggregate amount to be outstanding at any one time will not exceed the sum of (1) the dollar amount of the Company's receivables arising out of the sale of electricity, gas and merchandise, and (2) the dollar amount of the Company's fuel supply. As of August 31, 1966, the sum of these items for the Company totaled $14,418,438. Applicant anticipates that the commercial paper to be issued will carry an interest rate which in general will not go more than ¼% above the prime rate. Applicant is of the opinion that the issuance of commercial paper at a discount rate near the prime bank rate will result in savings in real interest costs because all of the proceeds can be used instead of having a portion of borrowed funds tied up in compensating balances as required by some banks. Under Section 204(e) of the Federal Power Act the Applicant is permitted to issue up to $21,160,000 in notes and drafts without Commission approval. As of November 14, 1966, the Applicant had outstanding notes of $9,706,000 issued under its agreements with the two banks and $5,950,000 outstanding in commercial paper.

Applicant plans to utilize the proceeds from the proposed issuance of Notes to furnish temporary, interim capital for the Applicant's construction program. This program has a cost of $31,558,000 for the first seven months of 1966 and a cost of $24,442,000 for the last five months of 1966 for a total 1966 cost of $56,000,000; and it has a total 1967 cost of $41,648,000. Principal items include the completion of a 440,000 kw generating unit at the Sabine generating plant, scheduled for completion in 1968; the commencement of construction of 580,000 kw generating unit at the Nelson Station and the commencement of construction of the 220,000 kw unit of Conroe generating plant in Texas.

Applicant contemplates undertaking permanent financing from time to time to discharge all or a portion of the proposed Notes then to be outstanding. The exact amount and type of securities to be issued, however, cannot be determined at this time.

Written notice of the application has been given to the Louisiana Public Service Commission and the Texas Railroad Commission, and to the Governor of each of those States. Notice has also been given by publication in the Federal Register on October 27, 1966 (31 F.R. 13814), stating that any person desiring to be heard or to make any protest with reference to the application should file a petition or protest on or before November 9, 1966, with the Federal Power Commission, Washington, D.C. No protest, petition or request to be heard in opposition to the granting of the application has been received.

The Commission finds:

(1) Applicant, a Texas corporation, is a public utility within the meaning of Section 204 of the Federal Power Act, subject to the jurisdiction of the Commission as heretofore determined and set forth in the Commission's order issued November 27, 1957, Docket No. E-6785, *Gulf States Utilities Company* (18 FPC 701).

(2) The proposed issuance of Promissory Notes, as described above, will constitute an issuance of securities within the purview of Section 204 of the Act.

(3) Applicant is not organized and operating in a State under the laws of which the security issue here involved is regulated by a State commission within the meaning of Section 204(f) of the Act; and the proposed issuance of Promissory Notes, as described above, is, therefore, not exempt by virtue of that Section from the requirements of Section 204 of the Act.

(4) The proposed issuance of Promissory Notes in the aggregate principal amount of $31,000,000, all as described above, will be in excess of 5% of the par value of the other securities of Applicant, and, therefore, will not be exempt by virtue of Section 204(e) of the Act from the requirements of Section 204(a) of the Act.

(5) The proposed issuance of Promissory Notes, described above, will be exempt from the competitive bidding requirements of Section 34.1a of the Commission's Regulations under the Federal Power Act by reason of paragraph 34.1a(a)(2) thereof.

(6) The proposed issuance of Promissory Notes, as hereinafter authorized, will be for a lawful object, within the corporate purposes of the Applicant and compatible with the public interest, which is appropriate for and consistent with the proper performance by the Applicant of service as a public utility, and which will not impair its ability to perform that service, and is reasonably appropriate for such purposes.

The Commission orders:

(A) The proposed issuance of Promissory Notes by the Applicant in an aggregate principal amount of not to exceed $31,000,000, at any one time outstanding, upon the terms and conditions and for the purposes set forth in the application, is hereby authorized, subject to the provisions of this order.

(B) This authorization is expressly conditioned upon the final maturity of all Notes to be issued pursuant thereto, being not later than December 31, 1967.

(C) The foregoing authorization is without prejudice to the authority of this Commission or any other regulatory body with respect to rates, service, accounts, valuations, estimates or determinations of cost, or any other matter whatsoever now pending or which may come before this Commission.

(D) Nothing in this order shall be construed to imply any guarantee or obligation on the part of the United States in respect of any securities to which this order relates.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

IOWA POWER AND LIGHT COMPANY, DOCKET NO. E-7311

ORDER AUTHORIZING ISSUANCE OF PROMISSORY NOTES

(Issued December 9, 1966)

Iowa Power and Light Company (Applicant), incorporated under the laws of the State of Iowa and doing business in that State, with its principal place of business in Des Moines, Iowa, filed an application on September 15, 1966, for an order, pursuant to Section 204 of the Federal Power Act, authorizing the issuance of up to $15,000,000 principal amount of unsecured Promissory Notes outstanding at any one time. Applicant is engaged in the electric and gas utility business in and around Des Moines, Iowa and 59 other communities in that State. The Applicant provides electric service at wholesale to five municipalities.

The Notes which are to be issued from time to time to commercial banking institutions are to have maturities of not more than 180 days from their dates of issue, and in any event not later than December 31, 1967 and will bear interest at the prime rate in effect at the time of the borrowings.

The Notes are to be issued to obtain temporary financing for the Applicant's 1966 and 1967 construction program, pending the receipt of proceeds from permanent financing. This construction program has an estimated cost of $20,150,000 for the last half of 1966 and for 1967. The prime items in this construction program include $6.3 million for the installation of eight 15,500 kw gas turbine units of Applicant's River Hills Station, $5.5 million for transmission line facilities and $6.5 million for electric distribution facilities.

Written notice of the application has been given to the Iowa Commerce Commission and to the Governor of that State. Notice of the application also was published in the Federal Register on September 27, 1966 (31 F.R. 12652), stating that any person desiring to be heard or to make any protest with reference to said application should on or before October 12, 1966, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests. No petition or protest or request to be heard in opposition to the granting of the application has been received.

The Commission finds:

(1) Applicant, a corporation, is a public utility within the meaning of Section 204 of the Federal Power Act, subject to the jurisdiction of the Commission, as heretofore described and set forth in the Commission's order issued May 31, 1961, *Iowa Power and Light Company*, Docket No. E-6974 (25 FPC 1063).

(2) The proposed issuance of Promissory Notes up to $15,000,000, all as described above, will constitute an issuance of securities within the purview of Section 204 of the Act.

(3) The proposed issuance of Promissory Notes in the aggregate principal amount of $15,000,000 outstanding at any one time, all as described above, will be in excess of 5 percent of the par value of the other securities of Applicant, and therefore, will not be exempt by virtue of Section 204(e) of the requirements of Section 204(a) of the Act.

(4) Applicant is not organized and operating in a State, under the laws of which the security issue here involved is regulated by a State Commission

within the meaning of Section 204(f) of the Act, and the proposed issuance is, therefore, not exempt by virtue of that Section from the requirements of Section 204 of the Act.

(5) The proposed issuance of Promissory Notes will be exempt from the competitive bidding requirements of Section 34.1a of the Commission's Regulations under the Federal Power Act by reason of paragraph 34.1a(a)(2) thereof.

(6) The proposed issuance of securities, as hereinafter authorized, will be for a lawful object, within the corporate purposes of Applicant and compatible with the public interest, which is appropriate for and consistent with the proper performance of service by Applicant as a public utility, and which will not impair its ability to perform that service, and reasonably necessary and appropriate for such purposes.

The Commission orders:

(A) The proposed issuance of Promissory Notes in the aggregate principal amount of $15,000,000 upon the terms and conditions and for the purposes set forth in the application, as described above, is hereby authorized, subject to the provisions of this order.

(B) This authorization is expressly conditioned upon the final maturity of all Notes to be issued pursuant thereto, being not later than December 31, 1967.

(C) The foregoing authorization is without prejudice to the authority of this Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates or determinations of cost or any other matter whatsoever which may come before this Commission.

(D) Nothing in this order shall be construed to imply any guarantee or obligation on the part of the United States in respect to any securities to which this order relates.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

NORTHERN STATES POWER COMPANY (WISCONSIN), DOCKET NO. E-7320

ORDER AUTHORIZING ISSUANCE OF PROMISSORY NOTES

(Issued December 9, 1966)

Northern States Power Company (Applicant) filed an application on November 7, 1966, for an order, pursuant to Section 204(a) of the Federal Power Act, authorizing the issuance of short-term promissory notes in the aggregate principal amount of not in excess of $7,000,000 outstanding at any one time.

The Applicant, a Wisconsin corporation with its principal place of business at Eau Claire, Wisconsin, owns and operates utility properties in west-central Wisconsin and furnishes electric service at retail in 171 communities and adjacent territories and electric energy at wholesale for resale to 11 additional communities. The Applicant also furnishes natural gas at retail in 11 communities and hot water for heating purposes in one community. The Applicant had net plant of $98,667,000 as of September 30, 1966, and it received total operating revenues of $32,451,000 in the twelve months ended the same date.

The proposed notes will be issued on various days and for various periods of time up to twelve months from dates of issue, but the final maturity dates will be on or before December 31, 1968. As to each borrowing, the interest rate will not exceed the prime rate at the time and place of making. The Applicant will have the right to prepay the notes in whole or in part, without payment of a premium. The Applicant has said that it will not agree in connection with obtaining a loan from any bank as to any minimum balance which must be maintained in any of its checking accounts.

The Applicant is permitted under Section 204(e) of the Act to issue short-term notes in the total principal amount of about $4,274,000. Of this amount, the Applicant has seventeen notes outstanding, payable to local banks, in the total amount of $2,440,000, bearing interest at 5½%.

It is the present intention of Applicant to obtain the funds for the payment of its promissory notes through the issuance and sale of capital securities. The amount, date, and kind of such securities have not been determined.

The proceeds from the bank borrowings to be evidenced by the promissory notes will be added to the Applicant's general funds and used to pay a portion of the cost of the Applicant's 1966 and 1967 construction program. This program includes $273,000 for generating equipment, $2.5 million for transmission lines, and $6.3 million for distribution facilities.

Written notice of the application has been given to the Wisconsin Public Service Commission and to the Governor of that State. Notice has also been published in the Federal Register on November 11, 1966 (31 F.R. 14758), stating that any person desiring to be heard or to make any protest with reference to the application shall file petitions or protests on or before December 5, 1966 with the Federal Power Commission, Washington, D.C. 20426. No protest, petition or request to be heard in opposition to the granting of the application has been received.

The Commission finds:

(1) Applicant, a corporation, is a public utility within the meaning of Section 204 of the Federal Power Act, subject to the jurisdiction of the Commission as heretofore described and set forth in the Commission's order issued on October 25, 1957 in *Northern States Power Company (Minnesota, et al.)*, Docket No. E-6774 (18 FPC 532).

(2) The proposed issuance of Promissory Notes in the aggregate principal amount of $7,000,000, all as described above, will constitute an issuance of securities within the purview of Section 204 of the Act.

(3) The proposed issuance of Promissory Notes in the aggregate principal amount of $7,000,000, all as described above, will be in excess of 5% of the par value of the other securities of Applicant, and, therefore, will not be exempt by virtue of Section 204(e) from the requirements of Section 204(a) of the Act.

(4) Applicant is not organized and operating in a State, under the laws of which the issue here involved is regulated by a State Commission within the meaning of Section 204(f) of the Act, and the proposed issuance is, therefore, not exempt by virtue of that Section from the requirements of Section 204 of the Act.

(5) The proposed issuance of Promissory Notes will be exempt from the competitive bidding requirements of Section 34.1a of the Commission's Regulations under the Federal Power Act by reason of paragraph 34.1a(a)(2).

(6) The proposed issuance of securities, as hereinafter authorized, will be for a lawful object, within the corporate purposes of Applicant and compatible

with the public interest, which is appropriate for and consistent with the proper performance of service by Applicant as a public utility, and which will not impair its ability to perform that service, and is reasonably necessary and appropriate for such purposes.

The Commission orders:

(A) The proposed issuance of Promissory Notes in the aggregate principal amount of $7,000,000 outstanding at any one time, whether an original issue or a renewal note, upon the terms and conditions and confined to the purposes set forth in the application, all as described above, is hereby authorized, subject to the provisions of this order.

(B) This authorization is expressly conditioned upon the final maturity of said notes being not later than December 31, 1968.

(C) The foregoing authorization is without prejudice to the authority of this Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates or determinations of cost or any other matter whatsoever now pending or which may come before this Commission.

(D) Nothing in this order shall be construed to imply any guarantee or obligation on the part of the United States in respect to any security to which this order relates.

OPINION NO. 500-A

TRANSWESTERN PIPELINE COMPANY, DOCKET NOS. CP63-204, CP64-91; GULF PACIFIC PIPELINE COMPANY, DOCKET NO. CP63-223; EL PASO NATURAL GAS COMPANY, DOCKET NO. CP64-76

OPINION AND ORDER ON REHEARING

(Issued December 9, 1966)*

Syllabus

1. Even if Commission revised its position on other points, because of loss by Gulf Pacific of such a large portion of its gas supply it would not be possible to certificate project without reopening the record and permitting presentation of new gas supply evidence; however, upon examination of applications for rehearing, rehearing is *denied* on the merits. P. 1012.
2. While precise kinds of service proposed by TSP and Gulf Pacific projects may be different, unquestionably the certification of one would make the other unnecessary. P. 1013.
3. Commission *rejects* petitioner's request to respond, pursuant to 1.26(d) of the rules, to non-record documents since this misconceives purpose of references which was only to emphasize what record already demonstrated. P. 1014.
4. Present annual rate reductions ordered in this proceeding will be of more value to consumers than any speculative future reductions. P. 1015.
5. Contention that corrections to prior order changed guidepost for measuring extent of flow-through of rate reductions and refunds is without merit. P. 1017.
6. Upon rehearing, Commission *confirms* prior opinion and order, as amended.

Commissioner O'Connor *dissenting.*

Commissioner Carver *not participating.*

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*Affirmed, *Southern California Edison Co. v. F.P.C.*, 387 F. 2d 619 (CA3-1967).

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

WHITE, *Chairman:*

Southern California Edison Company (Edison), on August 23, 1966, the City of Los Angeles and its Department of Water and Power (LADWP) on August 24, 1966, and Gulf Pacific Pipeline Company (Gulf Pacific), the People of the State of California and the Public Utilities Commission of the State of California, and the United States Department of Health, Education, and Welfare (HEW) on August 25, 1966, have filed applications for rehearing with respect to our Opinion No. 500 and accompanying order issued July 26, 1966, 36 FPC 176. California, on September 6, 1966, also asked for rehearing of our amending order of August 19, 1966, 36 FPC 491. Neither the Air Pollution Control District of Los Angeles nor Humble Oil & Refining Co. (Humble), which had contracted to supply about half of Gulf Pacific's gas, has asked for rehearing. On September 21, 1966, 36 FPC 658, we granted rehearing for purposes of adequate consideration of Opinion No. 500 and order, and our amending order of August 19, 1966.

In our opinion and order we granted certificates of public convenience and necessity to El Paso Natural Gas Company (El Paso) and Transwestern Pipeline Company (Transwestern) for the delivery of additional amounts of gas to the Pacific Lighting Group at the California border for resale to firm and industrial customers in southern California. El Paso's permanently certificated deliveries would be increased in steps by a daily contract quantity of 250 M^2cfd, and Transwestern's deliveries would likewise be increased in steps by a contract demand quantity of 340 M^2cfd. These additional deliveries have been designated by Pacific Lighting as its "Tailored Supply Program" (TSP). At the same time we denied a certificate to Gulf Pacific Pipeline Company to transport quantities of gas, increasing up to 865 M^2cfd, which were to be purchased by Edison and LADWP under a 20-year contract directly from Humble Oil & Refining Company and other producers in the Katy and Pledger Fields located on the Texas Gulf Coast in Railroad District No. 3.

Edison, LADWP and Gulf Pacific ask that the examiner's decision be reinstated granting a certificate to Gulf Pacific rather than El Paso and Transwestern. The California Commission asks that a certificate be issued to Gulf Pacific and Transwestern under certain conditions and denied to El Paso. HEW requests that the Commission correct certain errors which it alleges are contained in our discussion of air pollution in Opinion No. 500.

As a result of a statement made by Gulf Pacific in its application for rehearing and articles in the press, we issued an order on September 2, 1966, 36 FPC 577, requesting Gulf Pacific, Edison and LADWP to submit any notices of termination of the producers' gas supply contracts which they may have received. In view of this possible cancellation of the gas supply available to the Gulf Pacific project, we requested the applicants for rehearing to submit statements to the Commission showing why these proceedings should not be summarily terminated or whether some or all of the issues proposed by the applicants have been rendered moot.

In accordance with this order we have received copies of notices from a number of producers, including Humble, that they are terminating their gas supply contract representing the greater part of the gas supply of the Gulf Pacific Project. We have also received statements on the question of mootness from Edison, LADWP, Gulf Pacific, California, El Paso, and Pacific

Lighting. All these parties urge that a decision be made on the merits apart from gas supply. The proponents of the Gulf Pacific project also point out the possibility of reinstating the gas supply, and argue that the proceeding is not moot. Pacific Lighting and El Paso urge us to make a finding that there is now a failure of the gas supply and thus the proceeding is moot: nevertheless, these opponents of the Gulf Pacific project request us to make a determination of the matter on its merits.

It is clear that even if we were to revise our position on other points, because of the loss of such a large portion of its gas supply it would not be possible to certificate the Gulf Pacific project without our reopening the record and permitting the presentation of new gas supply evidence. Without determining whether this procedure would be consistent with our rules or previous orders in this proceeding, or with the public interest, we recognize that it would be a possible method of meeting the determination made in Opinion No. 500, and we shall rule on the applications for rehearing on the assumption that the Gulf Pacific project has an adequate gas supply. We conclude, however, that after examining the applications for rehearing, there is no reason to change our determination and shall accordingly deny rehearing on the merits to all applicants.

Many of the issues raised by the applications for rehearing have already been considered by the Commission and discussed in detail in Opinion No. 500, and therefore need not be discussed further. These include questions of whether we have considered a long-term supply of gas for California; the alleged competition which would result from certification of Gulf Pacific; the importance of the low incremental costs of moving additional gas to California by El Paso and Transwestern; and the sufficiency of the gas reserves available to these pipelines. The remainder of this opinion is devoted to a discussion of those issues raised by the petitioners which we believe warrant fuller discussion.

Air Pollution

With respect to our treatment of air pollution in the Los Angeles area, two contentions have been made. First, Edison contends that our statement in Opinion No. 500 that the 11.4 percent reduction in nitrogen oxides referred simply to an annual figure, and it argues that the percentage reductions would be 50–75 percent during the late fall and winter months when gas use by industry may be all or substantially curtailed. It contends that since we concede that a reduction of 50 percent in nitrogen oxide emissions would have a beneficial effect on photochemical smog we erred in focusing only on the annual average. Actually, we were comparing conditions during the winter months when Rule 62 was not in effect with conditions that would result if gas were substituted for fuel oil. However, even under conditions of complete gas curtailment by industries and power plants in Los Angeles County, a complete shift from oil to gas would reduce nitrogen oxide emissions by only about 25 percent, taking into account continued emissions of nitrogen oxides by motor vehicles. Furthermore, the problems of photochemical smog occur largely during the summer when 100 percent natural gas is already being burned and not during the fall or winter when some fuel oil is burned. It is obvious, therefore, that even substantially lesser concentrations of nitrogen oxide in the fall and winter months would have little effect, if any, on photochemical smog.

Second, HEW states that we erred in finding that there is no scientific assurance that the level of sulphur dioxide concentrations referred to by us will not adversely affect human health. This level was referred to by the witness for HEW as a concentration of 0.1 parts per million (ppm) lasting over a period of 24 hours and occurring one percent of the days. HEW cites a study, referred to on cross-examination, of a group of patients in Nashville, Tennessee, which related asthmatic attacks to atmospheric sulphur dioxide concentrations averaging between 0 and 0.042 ppm. In our opinion this study alone was not sufficient to indicate a correlation between human health and concentrations of SO_2 less than 0.1 ppm. The concentrations referred to by HEW were monthly averages, which are very different from the 24-hour 0.1 ppm level referred to in this record for Los Angeles. The study shows that the group of patients in Nashville was small, and according to the testimony, was subject to a large amount of coal smoke from the Nashville coal-burning plants. Moreover, we still do not have the benefit of HEW's advice as to what level of concentrations less than 0.1 ppm is harmful. Thus, as stated in Opinion No. 500, HEW's position simply does not provide this Commission with any meaningful guidance as to what concentrations of SO_2 may be harmful.

HEW also objects to our taking notice of the report "The Adequacy of Technology for Pollution Abatement", a report of the Research Management Advisory Panel (Subcommittee on Science Research and Development) to the Committee on Science and Astronautics, U. S. House of Representatives, 89th Cong., 2d Sess. (1966) cited at footnote 13 of Opinion No. 500 (*supra*, p. 189), without indicating the portion or portions of the report on which we relied. The report, which was released by the Committee on July 12, 1966, was cited simply as illustrative of the difficulty in defining pollution standards and the lack of clear knowledge of basic goals in the present state of technology.

Gas Market

Edison contends that TSP is a short-term solution which is not mutually exclusive with Gulf Pacific's proposal. The record clearly shows that TSP plus Gulf Pacific would deliver excessive quantities of gas in the first few years. Thus, if there is added to the 971 M^{2}cf of gas from TSP and the California customers in 1968, the 253 M^{2}cf available from Gulf Pacific in its first year there would be a total annual supply of 1226 M^{2}cf which would be well in excess of even Gulf Pacific's annual market estimate of 1069 M^{2}cf in that year. Similarly, there would be an excess of gas in the years 1969 and 1970. As we pointed out, if additional supplies should be required in the future, certification of the Gulf Pacific project would significantly diminish the ability of the southern California area to meet its energy requirements in the optimum manner. While the precise kinds of service proposed by the TSP and Gulf Pacific projects may be different, there can be no question but that certification of one project would make the other unnecessary.

Applicants also contend that we based our opinion as to the advent of nuclear generation of electric energy and coal generation in states outside of California on speculation and materials outside the record. On the contrary, the record shows the possibility of large new supplies of electric energy from both coal and nuclear sources. Evidence was introduced as to the coal reserves in some of the mountain states and plans for using these resources for the generation of electric energy. Edison's own evidence shows plans for increased generation from nuclear sources and was revised on the record to show that its program for receiving coal-generated energy was advanced beyond original expectations.

The petitioners attack the decision's additional references on this point to such matters as the nuclear program of TVA and the North-South intertie which are not detailed in the record. Relying upon Section 1.26(d) of our Rules, they request an opportunity to respond, presumably to show that some of the statements in these non-record documents are not factually accurate. This misconceives the purpose of these references, which was only to emphasize what the record already demonstrated—that the nature of the generation of electricity in and for California is in a state of constant change and that a project permitting a flexible approach to gas supply as these potential developments occur necessarily has advantages over one wherein a $300 million new pipeline is dependent for its financial base upon a twenty-year contract tying the electric utilities to a particular gas purchasing pattern.

Since this is the case, it is not material whether all of the possible coal generating plants will actually come into being; the extent to which the intertie will lessen the need for other generation of electric energy in Southern California or the exact time it will go into operation; or whether TVA's nuclear plans are a precise measure of the economics of nuclear generation in California. Thus, demonstration of the invalidity or inapplicability of some of the specific findings or conclusions in the non-record material to which we referred could not affect our determination. Accordingly, no purpose would be served by holding the proceeding open for any such showing.

The Commission has broad responsibilities in the field of electric power encompassing both regulatory and informational matters. The Commission's National Power Survey, conducted in cooperation with all segments of the industry, focused on the evolving patterns in the generation of electric power in all regions of the United States. Through this survey and its updating which is now in process, the Commission has kept abreast of events in the electric power field. The Commission's reliance on its expertise, as built up through such studies, in evaluating the future uncertainties in the fuel picture for southern California is not only an appropriate action but were we not to call upon such knowledge, we would be justly subject to criticism. See *F.P.C. v. Transcontinental Gas Pipe Line Corporation*, 365 U.S. 1 (1961).

Applicants argue that, apart from the needs of gas for future generating plants, the present gas-fired plants in southern California will require an assured gas supply for many years. These plants, the applicants say, represent a large investment and can neither be abandoned nor substantially converted to peak-load plants. It is a well-established fact that in the operation of electric systems the older or less efficient plants are converted to use for peaking purposes. It is not unreasonable to expect that the more efficient new plants built outside of California would be used for carrying base load in the southern California area.

The applicants argue that there is no evidence in the case to support any assumption that the cost of gas delivered to southern California would not increase over the next 20 years. It is equally true, however, that there is no basis in the record for assuming that costs, which have leveled out, will inevitably escalate. We do not believe, therefore, that a flat assumption—unsupported by the record—that purchased gas costs will escalate in the future is warranted.

Gulf Pacific has argued that the costs that El Paso will incur to construct facilities needed to connect new gas supplies will prevent rate reductions which the consumers would otherwise receive as a result of the "$40,000,000" per year depreciation deduction from El Paso's rate base, relating to existing facilities. In Opinion No. 500, we noted that the depreciation accruals of El Paso's existing rate base, approximately $40,000,000 per year, are sufficient to absorb any additional costs which El Paso might incur for installation of gathering facilities to attach new reserves. We did not intend to imply that all, or even a substantial part, of these depreciation accruals would necessarily be used to offset the construction of new gathering facilities, for there is no basis for an assumption that either El Paso or Transwestern would construct gathering facilities attributable to this project alone at anything approaching this cost. Moreover, as indicated in Opinion No. 500, El Paso already has extensive gathering facilities in the Permian and San Juan areas from which it will probably continue to secure a large portion of its gas. In any event, the present annual rate reductions which we have ordered in this proceeding will be of more value to the consumers than any speculative future rate reductions.

The applicants, particularly Edison, have criticized Opinion No. 500 for adopting TSP without regard to the cost burdens placed upon the electric utilities and their customers. We did not overlook this matter. In Appendix B to our opinion we compared the cost of gas at the load center with and without Gulf Pacific in operation. We found that costs at that point, the costs that would affect both the gas consumers and electric consumers, making the most favorable assumption possible by Gulf Pacific and ignoring some of the rate reductions which El Paso or Transwestern could make if they flowed through liberalized depreciation or the Permian reductions, were practically the same with Gulf Pacific in operation as without. The difference is that without Gulf Pacific the customers of Pacific Gas and Electric Company and customers of El Paso outside of California would benefit from El Paso's rate reductions in the amount of at least $4,442,000 annually. Our responsibilities require us to consider that one of the proposals would produce substantial savings to another group of gas consumers as well as the consumers in southern California at least equivalent to those available from Gulf Pacific.

It is argued that in our cost comparison we have failed to take into account any allowance for additional oil storage with El Paso and Transwestern certificated rather than Gulf Pacific. The record indicates that any such costs could affect only a small fraction of the $4,442,000 in savings to gas customers outside the California area.

Edison argues that we failed to take into account variations in the relationship between the prices of oil and gas. It says that if in the future the cost of fuel oil is cheaper than gas, the electric generating agencies will have to burn higher priced gas because of the APCD Rules 62 and 62.1, and to the extent oil is more expensive than the gas supplies rejected, the Commission has increased the cost of energy to the ultimate consumer by increasing the cost of electric generation. There is nothing in the record which will permit us to determine the relationship of oil and gas prices in 1968 and later years. The witnesses for Edison and other witnesses assumed that the price of oil would conform to the price of gas. One of the advantages of approving the TSP rather than Gulf Pacific or some other program is that it will permit supplies to be adjusted to future conditions in the market including the respective prices for oil and gas.

In any event, how the additional supplies may be utilized in California in case of any possible variations in the price of oil, would be a matter for the local authorities. If the price of oil falls in relation to gas, nothing we have done would prevent the power plants being permitted to burn larger amounts of oil. On the other hand if oil should become more expensive in relation to gas, something the record does not show now, this might be a factor in a later proceeding when there is a question of authorizing further gas supplies.

Edison has raised certain objections to the material contained in Appendix B to Opinion No. 500. First, it contends that it constitutes a denial of due process because it is highly complex, requiring the exercise of informed judgment and operating expertise and not a mere arithmetical arrangement of basic figures from the record. The Commission is not precluded from exercising its judgment on the basis of the record (see *Market Street R. Co.* v. *California Railroad Commission*, 324 U.S. 548, 560) merely because that judgment involves complicated computations. Although we did not attach the "gas balance" used in connection with Appendix B because of its physical size, upon reconsideration we believe it ought to be part of the public record and we have included it as an attachment to this order.

Edison also notes that in Appendix B, Schedule 1, *supra*, p. 224, "costs with Gulf Pacific in operation," we show an annual volume of seasonal gas from California sources in the amount of 1,634,100 Mcf although in computing the cost of California gas in Schedule 2 we show a volume of 6,634,100 Mcf. This computation assumes that under the contractual arrangements between Pacific Lighting and the California producers 10,000,000 Mcf of gas would be taken with Gulf Pacific, and that 15,000,000 Mcf would have to be returned or paid for. Cost, therefore, must be computed on the basis of this 15 million Mcf. Of this amount the calculation assumes 8,365,900 Mcf would be returned in kind, and that cash would be paid for 6,634,100 Mcf. The consumers would actually get a net amount of 10,000,000 Mcf less 8,365,900 Mcf or 1,634,100 Mcf, as shown, and cost would be computed on the basis of 6,634,100 Mcf for which payment was made.

There is one final contention which we believe deserves specific consideration. Edison contends that the Commission has construed the provisions of the Natural Gas Act relating to direct industrial sales contrary to its intent in describing such direct sales as "a useful adjunct to the normal operational pattern of interstate pipelines." Our comment was directed at the nature of Gulf Pacific's proposed operation, *i.e.*, an exclusively industrial pipeline, and not at direct sales as such. At the present time there are approximately 200,000 miles of high-pressure natural gas transmission pipelines in the United States, virtually all of which carry gas destined both for resale and for direct sale, and there is nothing to indicate that this general pattern of operation is not the most beneficial to gas consumers as a whole. At the same time we have certificated several pipelines which do not make sales for resale where the particular circumstances indicated that such operations would not adversely affect other gas customers in the area served.[1]

The Order of August 19, 1966

The California Commission on September 6, 1966, filed application for rehearing of our order issued August 19, 1966, which corrected the wording of three ordering paragraphs of Opinion No. 500 to conform those paragraphs with the conclusions and intent expressed in the text of that opinion. The need for such correction was brought to our attention by a "petition" filed by El Paso on August 5, 1966.

California contends that the August 19 correction of paragraph (f)(3) would result in a rate increase by El Paso rather than the further reduction there contemplated. The last portion of that paragraph in referring to exclusion of prepayments from rate base, was corrected to add at the end thereof the words "in excess of those prepayments reflected in the cost of service submitted in this proceeding."

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[1] *Inland Gas Company*, 28 FPC 683; *Chandeleur Pipe Line Company*, 30 FPC 1515; *Blue Dolphin Pipe Line Company*, 33 FPC 1141; *Black Marlin Pipeline Company*, 35 FPC 976, Docket No. CP66–333, issued June 13, 1966.

The paragraph without such correction would have required adjustment of the cost of service submitted by El Paso in these proceedings. No such adjustment was intended. In referring to the rate reductions proposed by El Paso and Transwestern, we stated in Opinion No. 599 (p. 216):

> * * * they offered in evidence proposed rate reductions supported by cost of service computations. In both cases, however, the *rate reductions which they propose are inadequate* to bring the indicated rate of return down to that last allowed by the Commission.

We further there stated:

> * * * we agree with the staff and the California Commission that certification of El Paso and Transwestern should be conditioned to require them to file *rates based upon the cost of service they submitted in the proceeding* adjusted to reflect a 6⅛ percent rate of return in the case of El Paso and 6¼ percent rate of return in the case of Transwestern.

When read in context, and in the light of the record, it is apparent that we were directing the companies to reduce their rates to conform them to the costs of service submitted by removing the so-called "cushion" in those rates, to which reference was made on the record. We were not directing the companies to adjust their costs of service. Accordingly, we believe that California's contention that the referenced correction would result in an increase in El Paso's rates is unfounded.

California also alleges that the August 19 corrections to paragraph (G)(1) and (G)(2) of the order accompanying Opinion No. 500 changed the guideposts for measuring the extent of flow-through of rate reductions and refunds by El Paso and Transwestern. We are of the view that California's contentions are without merit.

The costs of service submitted in these proceedings reflect costs of purchased gas as of January 1, 1964. As originally worded, paragraph (G)(1) would have required the companies to reduce the rates based on those costs of service if their "present" (*i.e.* July 26, 1966) costs of purchased gas were reduced. We are not aware of any basis in these certificate proceedings which would warrant our placing the companies under express obligation to automatically reduce their rates if costs not reflected in those rates are reduced. Whether and the extent to which a reduction in such costs are to be given effect in the companies' rates should await further review of the companies' operations. We believe the public interest is amply protected by the present requirements for reductions in rates should the companies' costs of purchased gas be reduced. Moreover, our order herein does not modify El Paso's obligations to reduce rates or to flow-through refunds to the extent already provided in its outstanding settlement. Further, our order cannot be construed as an abandonment of our policy of escrowing supplier refunds pending a determination whether the pipeline or its customers are entitled thereto.

California's contention that El Paso and Transwestern have somehow gained an unfair competitive advantage by reflecting 1964 purchased gas costs in their proposed rates is similarly unpersuasive. The rate comparison in these competitive proceedings was discussed in our opinion (pp. 205, *et seq.*), without giving consideration to downward adjustments relating to rate of return, the application of Opinion No. 417, 31 FPC 208, and the effect of the *Permian* decision. Our order does not provide for automatic upward adjustment of those rates to reflect increases in costs of purchased gas, if any, which the companies may be incurring, over and above those reflected in the costs of service submitted in evidence. The companies may, of course, file appropriate application for increases in rates based upon such increased cost of purchased gas, if they deem such application justified.

Based on all the foregoing, we conclude that California's application for rehearing filed September 6, should be denied.

The Commission further finds:

The assignments of error and grounds for rehearing set forth in the applications for rehearing present no facts or principles of law which were not fully considered by the Commission when it issued its Opinion No. 500 and order or which, having now been considered, warrant any change in or modification of such opinion and order except as specified herein.

The Commission orders:

(A) The applications for rehearing filed herein by Edison, LADWP, Gulf Pacific, the California Commission and HEW are denied except as specified herein.

(B) The Commission's Opinion No. 500 and order issued July 26, 1966 as amended by order issued August 19, 1966, is hereby confirmed as the order of the Commission.

Commissioner O'Connor *dissenting.*

Commissioner Carver *not participating.*

O'CONNOR, *Commissioner, dissenting:*

For the reasons set forth in my dissent to the majority opinion, I would grant rehearing. Any question as to the adequacy of the gas supply could be considered at that time. In addition, the present majority order necessitates further comments with regard to reasons for granting rehearing.

It cannot be overemphasized that the majority in certificating the short-term tailored supply program (TSP) of El Paso and Transwestern, reversed itself with regard to the avowed purpose of these proceedings as enunciated in the Rock Springs case (*El Paso Natural Gas Co.*, Opinion No. 393, 30 FPC 92 (1963))," * * * to determine how the *long-term* needs for *natural gas* deliveries to southern California may be met in the manner which is most desirable from the standpoint of the public interest." Certification of the short-term project was done under the guise of "flexibility." Unfortunately, however, TSP is not more flexible than the 20-year assured price and volumes which were offered by Gulf Pacific nor is it less costly as demonstrated in my initial dissent. The argument of flexibility is based on the mistaken assumptions that as more gas is needed, it will be purchased at presently existing or lower prices and that less gas will be required to serve the market due to the forthcoming new sources of generation and transmission, *viz.*, remote mine-mouth coal and nuclear plants. Furthermore, in reaching its determination that nuclear and remote mine-mouth negate the need for a guaranteed 20-year supply of gas, the majority relied upon reports which were not even published until 1966—well after the close of the record in the case and by denying rehearing deprived the parties of their rights under Section 1.26(d) of the Rules of Practice and Procedure.

The use of these reports which were not made available to the parties to consider and cross-examine was assigned as error by Southern California Edison in its Application for Rehearing. In attempting to justify use of the reports, the majority argues that they were within its "expertise" and only reflected matters "demonstrated" in the record; however, Section 1.26(d) of the Commission's Rules of Practice and Procedure states:

> Official notice may be taken of such matters as might be judicially noticed by the courts of the United States or of any other matter of technical or scientific fact of established character peculiarly within the general knowledge of the Commission as an expert body; *Provided, That any party shall, on timely request, be afforded an opportunity to show the contrary.* [emphasis added]

Thus, the majority is unjustifiably denying a "timely request" in its order on rehearing.

The extent to which the majority relied on these reports in making its determination to certificate a short-term supply is evidenced in its discussion of remote mine-mouth generation and extra high voltage transmission (EHV) in the initial opinion. It said regarding EHV and the West Coast Intertie, "One 835-mile line is scheduled to be energized in 1969 and the second in 1971." For this proposition it cited, "Hearings Senate Subcommittee on Public Works, Committee on Appropriations, June 13, 1966." It is not coincidental that the apparent availability of these sources of energy by 1969 and 1971 coincides with the time TSP will require more gas. This report obviously had an influential effect on the majority in its decisional process, yet the report deals with such speculative issues as timing, energy, and availability which the protesting parties could not inquire into. Nor was this an isolated instance. Further, in the initial opinion, the majority refers to a study introduced by Pacific Lighting pertaining to production of electrical energy in southern California by nuclear plants. This study was attacked in the hearing by Gulf Pacific as being too optimistic. Nevertheless, the majority, having the advantage of a report entitled, "Comparison of Coal-fired and Nuclear Power Plants for the TVA System," published in June 1966 by the Tennessee Valley Authority, stated, "Whatever merits Gulf Pacific's position may have had in 1964 when testimony on this subject was taken, it now appears that nuclear generation is meeting this economic test." Of course, since the TVA report was outside the record it could not be questioned or looked into by the protesting parties. Furthermore, in the highly contested matter of air pollution, two recently published reports were relied upon by the Commission without the parties having the opportunity to cross-examine or introduce additional or counterbalancing evidence. The dictates of a fair hearing would seem to require that they be able to meet them in some manner. On this point I would refer to Davis, Administrative Law Treatise, Vol. 2, "Our thesis is that the reconciliation can best be accomplished by recognizing that the cardinal principle of fair hearing is not that all facts should be in the record or that all facts should be subject to cross-examination, *but rather that parties should have opportunity to meet in the appropriate fashion any materials that influence decision.*" [emphasis added] Thus, I cannot look upon a "timely request" so lightly as the majority and would allow an opportunity for the protesting parties to respond to these documents which were obviously relied upon heavily by the majority in its decision to certificate TSP rather than the often promised, but never granted, long-term supply of natural gas.

Competition

In its order, the majority claims that there is no longer any necessity to discuss the question of competition, and indeed there is not because by not certificating Gulf Pacific a monopoly has been granted to the existing suppliers, at least until the highly speculative new sources of energy and transmission come into competitive being. Furthermore, it is inconceivable that under the present circumstances, another pipeline would consider the southern California market. This may not seem too important unless the majority's optimism for the new energy sources proves overzealous!

Air Pollution

The majority apparently fails to comprehend the effects of its decision on the problem of air pollution in light of the expanding southern California market. Under TSP there will necessarily have to be more gas certificated in 1969. Assuming gas consumption is proportionate to present volumes, there will also be more fuel oil consumed. The end result is that regardless of what levels of the various contaminants are deemed "safe" or "harmful", greater quantities will be emitted into the atmosphere as more fuel oil is burned. This will be so regardless of the proposed new sources of generation since investment alone, estimated at one billion dollars, in the gas burning plants in southern California militates against the argument that they will be converted from base load to peaking in the near future. The upshot of this is that the majority's opinion will aggravate the air pollution problem rather than alleviate it.

Cost

In its bent for "flexibility," the majority has chosen a project which is planned to require additional gas by 1969. Assuming that this gas will continue to come from the Permian Basin it may further be assumed that it will not be sold at a wellhead old gas price of 14.5¢, but rather at the new gas price of 16.5¢. Added to the increased price will also be the cost of attachment. Consequently, the majority argument that, "We do not believe, therefore, that a flat assumption—unsupported by the record—that purchased gas costs will escalate in the future is warranted" is simply not so. In the event that El Paso should have to go outside Permian to one of its new sites of exploration, for example, Texas R.R. District 4, Texas Gulf Coast, costs could be even greater when price of gas and cost of attachment are rolled in together. Furthermore, there will unquestionably be a growing demand for gas in southern California in the future, regardless of the new sources of energy; at least until the present modern gas-burning plants can feasibly be converted to uses other than base load.

CONCLUSION

The result of the majority decision is that the people of southern California have been lulled into thinking that their long-term energy requirements have been taken care of, but in effect, the majority has presented them with a short-term, rising cost supply of natural gas, under the guise of "flexibility." In so doing, the majority has based much of its determination on documents published after the record was closed, and as a result the parties have, despite their strenuous protests, not been given an opportunity to answer or respond to these decision-influencing materials. The speculative nature of the subject matter covered in these reports and the fact that "timely request" to show to the contrary has been filed by the aggrieved parties, along with the reasons heretofore mentioned both in this dissent and my dissent to the initial opinion, impel me to favor granting rehearing.

GAS BALANCE, YEAR 1970 WITH GULF PACIFIC

Period			Requirements		Requirements in excess of basic supply		Deviations in basic California supply	South Coles levee supply	North Coles levee supply	Northern counties exchange gas	Emergency gas supply	Storage gas		Deviation in contract supply		Curtailment
No.	Month	Days	Firm	Potential	Firm	Total						Input	Output	El Paso	Trans-western	
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)	(n)	(o)	(p)	(q)
1	January	6	2,537.8	4,345.3	479.2	1,486.3	82.9	85.0	200.0	4.7			106.6			1,007.1
2		5	1,986.6	3,471.0		612.0	(48.2)			4.7						655.5
3		5	2,075.9	3,932.9	17.3	1,073.9	12.6			4.7						1,056.6
4		5	2,267.6	4,061.6	209.0	1,202.6	4.3		200.0	4.7						993.6
5		4	2,011.4	3,659.6		800.6	(48.2)			4.7						844.1
6		6	1,928.3	3,801.3		942.3	(48.2)			4.7						985.8
	Subtotal	31		120,845.5	4,006.7	32,216.5	(141.1)	510.0	2,200.0	145.7			639.6			28,862.3
7	February	5	2,118.3	3,932.5	59.7	1,073.5	56.8			2.9						1,013.8
8		5	1,953.7	3,534.1		675.1	(52.7)			2.9						724.9
9		5	1,927.0	3,790.9		931.9	(52.7)			2.9						981.7
10		4	1,971.1	3,654.8		795.8	(52.7)			2.9						845.6
11		4	2,340.0	4,263.9	281.4	1,404.9	73.5		200.0	2.9			5.0			1,123.5
12		5	2,223.4	4,127.5	164.8	1,268.5	61.9	100.0		2.9						1,103.7
	Subtotal	28		108,599.8	2,248.1	28,547.8	149.7	500.0	800.0	81.2			20.0			26,996.9
13	March	6	1,982.5	3,780.2		921.2	(34.0)			2.9						952.3
14		6	1,806.8	3,579.6		720.6	(39.0)			2.9						756.7
15		4	1,689.2	3,358.5		499.5	(39.0)			2.9						535.6
16		5	1,730.9	3,501.2		642.2	(34.1)			2.9						673.4
17		4	1,622.6	3,116.5		257.5	(39.4)			2.9						294.0
18		6	1,621.0	3,419.7		560.7	(39.0)			2.9						596.8
	Subtotal	31		108,083.0		19,444.0	(1,156.1)			89.9						20,520.2
19	April	5	1,637.2	3,424.0		565.0				2.1						562.9
20		3	1,306.5	2,825.9		(33.1)	(35.2)			2.1						
21		5	1,463.3	3,358.4		499.4				2.1						497.3
22		2	1,261.9	2,723.0		(136.0)	(52.4)			2.1		85.7				
23		5	1,158.5	3,034.3		175.3	83.2	85.0		2.1			5.0			
24		2	1,182.7	2,727.0		(132.0)	(52.4)			2.1		81.7				
25		5	1,311.7	3,200.8		341.8	30.7	100.0	200.0	2.1						
26		3	1,079.7	2,471.4		(387.6)	(52.4)			2.1		337.3				
	Subtotal	30		91,879.4		6,109.4	142.1	925.0	1,000.0	63.0		1,346.7	25.0			5,301.0

GAS BALANCE, YEAR 1970 WITH GULF PACIFIC—Continued

Period			Requirements		Requirements in excess of basic supply		Deviations in basic California supply	South Coles levee supply	North Coles levee supply	Northern counties exchange gas	Emergency gas supply	Storage gas		Deviation in contract supply		Curtailment
No.	Month	Days	Firm	Potential	Firm	Total						Input	Output	El Paso	Trans-western	
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i).	(j)	(k)	(l)	(m)	(n)	(o)	(p)	(q)
27	May	5	1,286.6	3,133.6		274.6	89.4	75.0		1.9			108.3			
28		6	1,199.9	3,086.7		227.7	89.4	75.0		1.9			61.4			
29		5	1,039.8	2,418.6		(440.4)	(40.9)			1.9		401.4				
30		6	1,151.9	2,996.7		137.7	89.4			1.9			46.4			
31		4	1,047.7	2,568.8		(290.2)	(40.9)			1.9		251.2				
32		5	1,091.4	2,900.6		41.6	39.7			1.9						
	Subtotal	31		89,039.6		410.6	1,350.2	825.0		58.9		3,011.8	1,188.3			
33	June	6	1,104.6	3,056.5		197.5	34.8			1.1			161.6			
34		6	998.4	2,962.6		103.6	34.8			1.1			67.7			
35		4	880.4	2,526.0		(333.0)	(31.0)		(53.1)	1.1		250.0				
36		5	912.7	2,904.1		45.1	34.8			1.1			9.2			
37		4	846.4	2,329.4		(520.6)	(31.0)	(99.7)	(150.0)	1.1		250.0				
38		5	844.2	2,886.1		27.1	26.0			1.1						
	Subtotal	30		84,487.2		(1,282.8)	473.6	(398.8)	(812.4)	33.0		2,000.0	1,421.8			
39	July	5	889.4	2,878.7		19.7	18.7			1.0						
40		5	852.6	2,903.0		44.0	29.9			1.0			13.1			
41		5	768.7	2,483.8		(375.2)	(35.3)	(90.9)		1.0		250.0				
42		5	830.5	2,888.5		29.5	28.5			1.0						
43		6	750.0	2,306.6		(552.4)	(35.3)	(100.0)	(150.0)	1.0		268.1				
44		5	809.6	2,826.4		(32.6)	(33.6)			1.0						
	Subtotal	31		83,741.6		(4,887.4)	(170.8)	(1,054.5)	(900.0)	31.0		2,858.6	65.5			
45	August	5	751.8	2,762.6		(96.4)	(35.3)			1.0		62.1				
46		6	769.2	2,769.5		(89.5)	(35.3)			1.0		55.2				
47		4	664.6	2,214.9		(644.1)	(35.3)	(100.0)	(150.0)	1.0		359.8				
48		6	779.7	2,795.8		(63.2)	(35.3)			1.0		28.9				
49		4	688.5	2,369.4		(489.6)	(35.3)	(55.3)	(150.0)	1.0		250.0				
50		6	809.2	2,802.9		(56.1)	(35.3)			1.0		21.8				
	Subtotal	31		82,350.4		(6,269.6)	(1,094.3)	(621.2)	(1,200.0)	31.0		3,385.1				

51	September	5	794.3	2,895.5	----------	36.5	25.5	----------	----------	1.5	----------	----------	9.5	----------	----------	----------
52		5	703.9	2,272.6	----------	(586.4)	(40.4)	(100.0)	(150.0)	1.5	----------	297.5	----------	----------	----------	----------
53		5	844.9	2,906.8	----------	47.8	25.5	----------	----------	1.5	----------	----------	20.8	----------	----------	----------
54		5	779.9	2,489.3	----------	(369.7)	(40.4)	(80.8)	----------	1.5	----------	250.0	----------	----------	----------	----------
55		5	892.1	2,959.3	----------	100.3	25.5	----------	----------	1.5	----------	----------	73.3	----------	----------	----------
56		5	949.1	3,047.7	----------	188.7	25.5	----------	----------	1.5	----------	----------	161.7	----------	----------	----------
	Subtotal	30	----------	82,856.0	----------	(2,914.0)	106.0	(904.0)	(750.0)	45.0	----------	2,737.5	1,326.5	----------	----------	----------
57	October	5	930.4	2,979.1	----------	120.1	18.3	----------	----------	2.1	----------	----------	99.7	----------	----------	----------
58		5	926.3	2,482.5	----------	(376.5)	(46.4)	(75.0)	(150.0)	2.1	----------	107.2	----------	----------	----------	----------
59		5	1,030.3	3,030.6	----------	171.6	18.3	----------	----------	2.1	----------	----------	151.2	----------	----------	----------
60		4	969.0	2,687.0	----------	(172.0)	5.0	----------	(150.0)	2.1	----------	29.1	----------	----------	----------	----------
61		6	1,119.5	3,209.9	----------	350.9	18.3	----------	----------	2.1	----------	----------	330.5	----------	----------	----------
62		6	1,303.6	3,374.3	----------	515.3	18.3	----------	----------	2.1	----------	----------	494.9	----------	----------	----------
	Subtotal	31	----------	92,714.2	----------	4,085.2	190.6	(375.0)	(1,350.0)	65.1	----------	652.4	6,206.9	----------	----------	----------
63	November	5	1,147.7	3,168.7	----------	309.7	66.2	85.0	----------	3.4	----------	----------	155.1	----------	----------	----------
64		2	1,123.0	2,684.4	----------	(174.6)	(60.0)	----------	----------	3.4	----------	118.0	----------	----------	----------	----------
65		6	1,286.6	3,358.6	----------	499.6	66.2	85.0	----------	3.4	----------	----------	345.0	----------	----------	----------
66		2	1,136.8	2,829.5	----------	(29.5)	(32.9)	----------	----------	3.4	----------	----------	----------	----------	----------	----------
67		5	1,772.1	3,861.3	----------	1,002.3	----------	----------	----------	3.4	----------	----------	----------	----------	----------	998.9
68		3	1,662.3	3,293.9	----------	434.9	----------	85.0	----------	3.4	----------	----------	----------	----------	----------	346.5
69		5	1,942.9	3,932.3	----------	1,073.3	----------	50.0	----------	3.4	----------	----------	248.8	----------	----------	771.1
70		2	1,763.8	3,460.4	----------	601.4	(12.4)	----------	----------	3.4	----------	----------	----------	----------	----------	610.4
	Subtotal	30	----------	102,793.4	----------	17,023.4	517.6	1,440.0	----------	102.0	----------	236.0	4,089.5	----------	----------	11,110.3
71	December	5	1,714.6	3,786.2	----------	927.2	----------	----------	----------	4.2	----------	----------	----------	----------	----------	923.0
72		5	1,806.8	3,615.1	----------	756.1	(55.0)	----------	----------	4.2	----------	----------	----------	----------	----------	806.9
73		5	1,820.9	3,864.9	----------	1,005.9	----------	75.0	----------	4.2	----------	----------	----------	----------	----------	926.7
74		6	1,811.9	3,511.9	----------	652.9	(50.0)	----------	----------	4.2	----------	----------	----------	----------	----------	698.7
75		5	1,995.9	4,003.1	----------	1,144.1	----------	85.0	----------	4.2	----------	----------	249.0	----------	----------	805.9
76		5	2,304.3	4,287.5	245.7	1,428.5	41.5	----------	200.0	4.2	----------	----------	----------	----------	----------	1,182.8
	Subtotal	31	----------	118,855.4	1,228.5	30,226.4	(367.5)	800.0 (3,353.5)	1,000.0 (5,012.4)	130.2	----------	----------	1,245.0	----------	----------	27,418.7
	Total	365	----------	1,166,254.5	7,483.3	122,719.5	----------	5,000.0	5,000.0	876.0	----------	16,228.1	16,228.1	----------	----------	120,209.4

NOTES

Basic supply (M²CFD):	
El Paso	1,143.0
Transwestern:	
Firm	300.0
LX	45.0
California	570.6
Total	2,058.6
Gulf Pacific	800.4
Total	2,859.0

Period volumes in M²cfd.
Total volumes in M²cf.

	South Coles	*North Coles*
Pay back of Coles levee gas (M²cf):		
Vol. taken	5,000.0	5,000.0
Rate of pay back	1.5:1	1.5:1
Vol. to pay for	7,500.0	7,500.0
Returned gas	3,353.5	5,012.4
Cash	4,146.5	2,487.6

GAS BALANCE, YEAR 1970 WITHOUT GULF PACIFIC

Period			Requirements		Requirements in excess of basic supply		Deviations in basic California supply	South Coles levee supply	North Coles levee supply	Northern counties exchange gas	Emergency gas supply	Storage gas		Deviation in contract supply		Curtailment
No.	Month	Days	Firm	Potential	Firm	Total						Input	Output	El Paso	Transwestern	
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)	(n)	(o)	(p)	(q)
1	January	6	2, 537. 8	4, 345. 3		1, 738. 8	(48. 2)			4. 7		25. 2				1, 807. 5
2		5	1, 986. 6	3, 471. 0		864. 5	(48. 2)			4. 7		200. 0				1, 108. 0
3		5	2, 075. 9	3, 932. 9		1, 326. 4	(48. 2)			4. 7		200. 0				1, 569. 9
4		5	2, 267. 6	4, 061. 6		1, 455. 1	(48. 2)			4. 7		200. 0				1, 698. 6
5		4	2, 011. 4	3, 659. 6		1, 053. 1	(48. 2)			4. 7		200. 0				1, 296. 6
6		6	1, 928. 3	3, 801. 3		1, 194. 8	(48. 2)			4. 7		200. 0				1, 438. 3
	Subtotal	31		120, 845. 5		40, 044. 0	(1, 494. 2)			145. 7		5, 151. 2				46, 543. 7
7	February	5	2, 118. 3	3, 932. 5		1, 326. 0	(52. 7)			2. 9		200. 0				1, 575. 8
8		5	1, 953. 7	3, 534. 1		927. 6	(52. 7)			2. 9		200. 0				1, 177. 4
9		5	1, 927. 0	3, 790. 9		1, 184. 4	(52. 7)			2. 9		200. 0				1, 434. 2
10		4	1, 971. 1	3, 654. 8		1, 048. 3	(52. 7)			2. 9		200. 0				1, 298. 1
11		4	2, 340. 0	4, 263. 9		1, 657. 4	(52. 7)			2. 9						1, 707. 2
12		5	2, 223. 4	4, 127. 5		1, 521. 0	(52. 7)			2. 9		200. 0				1, 770. 8
	Subtotal	28		108, 599. 8		35, 617. 8	(1, 475. 6)			81. 2		4, 800. 0				41, 812. 2
13	March	6	1, 982. 5	3, 780. 2		1, 173. 7	(51. 8)			2. 9		200. 0				1, 422. 6
14		6	1, 806. 8	3, 579. 6		973. 1	(51. 8)			2. 9		200. 0				1, 222. 0
15		4	1, 689. 2	3, 358. 5		752. 0	(51. 8)			2. 9		200. 0				1, 000. 9
16		5	1, 730. 9	3, 501. 2		894. 7	(51. 8)			2. 9		200. 0				1, 143. 6
17		4	1, 622. 6	3, 116. 5		510. 0	(51. 8)			2. 9		200. 0				758. 9
18		6	1, 621. 0	3, 419. 7		813. 2	(51. 8)			2. 9		200. 0				1, 062. 1
	Subtotal	31		108, 063. 0		27, 281. 5	(1, 605. 8)			89. 9		6, 200. 0				34, 997. 4
19	April	5	1, 637. 2	3, 424. 0		817. 5	(52. 4)			2. 1		200. 0				1, 067. 8
20		3	1, 306. 5	2, 825. 9		219. 4	(52. 4)			2. 1		200. 0				469. 7
21		5	1, 463. 3	3, 358. 4		751. 9	(52. 4)			2. 1		250. 0				1, 052. 2
22		2	1, 261. 9	2, 723. 0		116. 5	(52. 4)			2. 1		200. 0				366. 8
23		5	1, 158. 5	3, 034. 3		427. 8	84. 4	85. 0	200. 0	2. 1			56. 3			
24		2	1, 182. 7	2, 727. 0		120. 5	43. 4	75. 0		2. 1						
25		5	1, 311. 7	3, 200. 8		594. 3	84. 4	100. 0	200. 0	2. 1			207. 8			
26		3	1, 079. 7	2, 471. 4		(135. 1)	84. 4	75. 0		2. 1		296. 6				
	Subtotal	30		91, 879. 4		13, 684. 4	398. 0	1, 300. 0	2, 000. 0	63. 0		4, 139. 8	1, 320. 5			12, 742. 7

27	May	5	1,286.6	3,133.6		527.1	89.4	100.0	200.0	1.9			135.8			
28		6	1,199.9	3,086.7		480.2	89.4	85.0	200.0	1.9			103.9			
29		5	1,039.8	2,418.6		(187.9)	89.4	75.0		1.9		354.2				
30		6	1,151.9	2,996.7		390.2	89.4	85.0		1.9			213.9			
31		4	1,047.7	2,568.8		(37.7)	89.4	44.0		1.9		173.0				
32		5	1,091.4	2,900.6		294.1	89.4	85.0		1.9			117.8			
	Subtotal	31		89,039.6		8,238.1	2,771.4	2,496.0	2,200.0	58.9		2,463.0	3,174.8			
33	June	6	1,104.6	3,056.5		450.0	34.8			1.1			414.1			
34		6	998.4	2,962.6		356.1	34.8			1.1			320.2			
35		4	880.4	2,526.0		(80.5)	34.8			1.1		116.4				
36		5	912.7	2,904.1		297.6	34.8			1.1			261.7			
37		4	846.4	2,329.4		(277.1)	34.8			1.1		313.0				
38		5	844.2	2,886.1		279.6	34.8			1.1			243.7			
	Subtotal	30		84,487.2		6,292.2	1,044.0			33.0		1,717.6	6,932.8			
39	July	5	889.4	2,878.7		272.2	29.9			1.0			241.3			
40		5	852.6	2,903.0		296.5	29.9			1.0			265.6			
41		5	768.7	2,483.8		(122.7)	29.9			1.0		153.6				
42		5	830.5	2,888.5		282.0	29.9			1.0			251.1			
43		6	750.0	2,306.6		(299.9)	29.9			1.0		330.8				
44		5	809.6	2,826.4		219.9	29.9			1.0			189.0			
	Subtotal	31		83,741.6		2,940.1	926.9			31.0		2,752.8	4,735.0			
45	August	5	751.8	2,762.6		156.1	29.9			1.0			125.2			
46		6	769.2	2,769.5		163.0	29.9			1.0			132.1			
47		4	664.6	2,214.9		(391.6)	11.4			1.0		404.0				
48		6	779.7	2,795.8		189.3	29.9			1.0			158.4			
49		4	688.5	2,369.4		(237.1)				1.0		238.1				
50		6	809.2	2,802.9		196.4	29.9			1.0			165.5			
	Subtotal	31		82,359.4		1,557.9	733.3			31.0		2,568.4	3,362.0			
51	September	5	794.3	2,895.5		289.0	25.5			1.5			262.0			
52		5	703.9	2,272.6		(333.9)				1.5		335.4				
53		5	844.9	2,906.8		300.3	25.5			1.5			273.3			
54		5	779.9	2,489.3		(117.2)				1.5		118.7				
55		5	892.1	2,959.3		352.8	25.5			1.5			325.8			
56		5	949.1	3,047.7		441.2	25.5			1.5			414.2			
	Subtotal	30		82,856.0		4,661.0	510.0			45.0		2,270.5	6,376.5			
57	October	5	930.4	2,979.1		372.6	18.3			2.1			352.2			
58		5	926.3	2,482.5		(124.0)				2.1		126.1				
59		5	1,030.2	3,030.6		424.1	18.3			2.1			403.7			
60		4	969.0	2,687.0		80.5	18.3			2.1	25.0		35.1			
61		6	1,119.5	3,209.9		603.4	18.3			2.1			583.0			
62		6	1,303.6	3,374.3		767.8	18.3			2.1	125.0		622.4			
	Subtotal	31		92,714.2		11,912.7	475.8			65.1	850.0	630.5	11,152.3			

GAS BALANCE, YEAR 1970 WITHOUT GULF PACIFIC—Continued

Period			Requirements		Requirements in excess of basic supply		Deviations in basic California supply	South Coles levee supply	North Coles levee supply	Northern counties exchange gas	Emergency gas supply	Storage gas		Deviation in contract supply		Curtailment
No.	Month	Days	Firm	Potential	Firm	Total						Input	Output	El Paso	Transwestern	
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)	(n)	(o)	(p)	(q)
63	November	5	1,147.7	3,168.7	--------	562.2	66.2	75.0	160.0	3.4	--------	--------	257.6	--------	--------	--------
64	--------	2	1,123.0	2,684.4	--------	77.9	--------	74.5	--------	3.4	--------	--------	--------	--------	--------	--------
65	--------	6	1,286.0	3,358.6	--------	752.1	66.2	85.0	--------	3.4	--------	--------	597.5	--------	--------	--------
66	--------	2	1,136.8	2,829.5	--------	223.0	61.1	85.0	--------	3.4	--------	--------	73.5	--------	--------	--------
67	--------	5	1,772.1	3,861.3	--------	1,254.8	(64.9)	--------	--------	3.4	--------	200.0	--------	--------	--------	1,516.3
68	--------	3	1,662.3	3,293.9	--------	687.4	(64.9)	--------	--------	3.4	--------	200.0	--------	--------	--------	948.9
69	--------	5	1,942.9	3,932.3	--------	1,325.8	(64.9)	--------	--------	3.4	--------	200.0	--------	--------	--------	1,587.3
70	--------	2	1,763.8	3,460.4	--------	853.9	(64.9)	--------	--------	3.4	--------	198.3	--------	--------	--------	1,113.7
	Subtotal	30	--------	102,793.4	--------	24,598.4	(123.1)	1,204.0	800.0	102.0	--------	2,996.6	5,020.0	--------	--------	20,592.1
71	December	5	1,714.6	3,786.2	--------	1,179.7	(69.7)	--------	--------	4.2	--------	200.0	--------	--------	--------	1,445.2
72	--------	5	1,806.8	3,615.1	--------	1,008.6	(69.7)	--------	--------	4.2	--------	200.0	--------	--------	--------	1,274.1
73	--------	5	1,820.9	3,864.9	--------	1,258.4	(69.7)	--------	--------	4.2	--------	200.0	--------	--------	--------	1,523.9
74	--------	6	1,811.9	3,511.9	--------	905.4	(69.7)	--------	--------	4.2	--------	200.0	--------	--------	--------	1,170.9
75	--------	5	1,995.9	4,003.1	--------	1,396.6	(69.7)	--------	--------	4.2	--------	200.0	--------	--------	--------	1,662.1
76	--------	5	2,304.3	4,287.5	--------	1,681.0	(69.7)	--------	--------	4.2	--------	236.7	--------	--------	--------	1,983.2
	Subtotal	31	--------	118,855.4	--------	38,053.9	(2,160.7)	--------	--------	130.2	--------	6,383.5	--------	--------	--------	46,467.9
	Total	365	--------	1,166,254.5	--------	214,882.0	--------	5,000.0	5,000.0	876.0	850.0	42,073.9	42,073.9	--------	--------	203,156.0

NOTES

Basic supply (M²cfd):	
El Paso	1,395.9
Transwestern	640.0
California	570.6
Total	2,606.5

Period volumes in M²cfd.
Total volumes in M²cf.

Pay back of Coles levee gas (M²cf):	*South Coles*	*North Coles*
Vol. taken	5,000.0	5,000.0
Rate of pay back	1.5:1	1.5:1
Vol. to pay for	7,500.0	7,500.0
Returned gas	--------	--------
Cash	7,500.0	7,500.0

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John E. Carver, Jr.

GEORGE DESPOT, AGENT (OPERATOR), ET AL., DOCKET NO. CI65-974, ET AL. AND THE SUPERIOR OIL COMPANY, CI67-287

ORDER CONSOLIDATING PROCEEDINGS

(Issued December 12, 1966)

On September 14, 1966, 36 FPC 628, an order to show cause was issued by the Commission directing The Superior Oil Company (Superior) to appear and show cause, if any there be, at a public hearing commencing November 15, 1966, why it should not be required to apply for and obtain *nunc pro tunc* a certificate of public convenience and necessity authorizing it to make the sale of gas to Tenneco which it has been making without authorization from the South Bon Air field, Calcasieu Parish, Louisiana, and whether the initial price for such sale should not be fixed at the appropriate in-line price for South Louisiana as of the date delivery was commenced, and why it should not be required to refund the difference between the lawful initial price and the price actually charged for the related deliveries of gas. The order to show cause further provided that the date from which refunds shall be made by Superior shall be determined in this proceeding, and evidence may be offered by any party as to the appropriate amount of refunds and the date from which liability for such refunds should be fixed.

Subsequently, by a letter of the Secretary of the Commission, dated October 13, 1966, the hearing date was postponed until January 10, 1967, and the date for filing Superior's case-in-chief was likewise postponed until December 10, 1966.

The order to show cause issued September 14, 1966, also required Superior to respond on or before October 14, 1966, by filing with the Commission an answer in writing in accord with the provisions of Section 1.9(c) of the Commission's Rules of Practice and Procedure. On October 6, 1966, Superior responded to the specific inquiries of paragraph (B) of the Commission's order to show cause by furnishing information as to the terms of its agreement pursuant to which it has sold natural gas to Tenneco from the South Bon Air field.

It appears that the above-captioned Docket No. CI67-287 involves issues of law and fact similar to the issues in the dockets consolidated in George Despot, Agent (Operator), *et al.*, Docket No. CI65-974, *et al.* The issues raised by Docket No. CI67-287 will be most expeditiously disposed of by consolidating the order to show cause against Superior heretofore issued on September 14, 1966, with the orders to show cause against the various respondents in Docket No. CI65-974, *et al.*

The Commission finds:

It is appropriate and in the public interest that the above-captioned matters be consolidated for hearing and decision as hereinafter ordered.

The Commission orders:

(A) Docket No. CI67-287 is hereby consolidated with Docket No. CI65-974, *et al.* for hearing and decision.

(B) The date heretofore set by the Examiner for the filing of exhibits and testimony by respondents in Docket No. CI65-974, *et al.*, *i.e.*, November 23, 1966, shall, in the case of Superior, be extended to January 13, 1967.

(C) In lieu of the hearing date of January 10, 1967, Superior shall comply with the procedures for hearing set up by the Examiner in Docket No. CI65-974, *et al.*, with the exception provided in paragraph (B) above.

(D) All parties to the above-captioned proceedings shall serve Superior with copies of their testimony and exhibits as well as motions and other documents heretofore filed in the consolidated proceedings in Docket No. CI65-974, *et al.*

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

GEORGE DESPOT, AGENT (OPERATOR), ET AL., DOCKET NO. CI65–974, ET AL. AND GULF OIL CORPORATION, DOCKET NO. CI67–477 AND CI60–322

ORDER TO SHOW CAUSE AND ORDER CONSOLIDATING PROCEEDINGS

(Issued December 12, 1966)

Gulf Oil Corporation, successor in interest to The British-American Oil Producing Company, has filed an application in Docket No. CI67–477 to abandon service heretofore commenced to Tennessee Gas Pipeline Company under a restricted use (compression fuel) contract similar to the contracts which were the subject of the Supreme Court's decision in *California* v. *Lo-Vaca Gathering Company, et al.*, 379 U.S. 366. In Docket No. CI60–322, Gulf Oil Corporation has filed an amendment which seeks authority to continue the sale to Tennessee Gas Pipeline Company under a new standard gas sales contract comprising its F.P.C. Gas Rate Schedule No. 349. Gulf Oil Corporation has not heretofore sought nor has it obtained from the Commission authority to make the above-mentioned compressor fuel sale to Tennessee Gas Pipeline Company.

The above-captioned Dockets involve issues of law and fact similar to the issues in the Dockets consolidated in *George Despot (Operator), et al.*, Docket No. CI65–974, *et al.* It may also be noted that Docket No. CI66–68, heretofore consolidated with *George Despot (Operator), et al.*, Docket No. CI65–974, *et al.*, is an application filed by Gulf Oil Corporation involving issues of law and fact similar to the issues arising out of Docket Nos. CI60–322 and CI67–477. Gulf Oil Corporation has participated in the proceeding thus far held in Docket No. CI65–974, *et al.*

The issues raised by Docket Nos. CI60–322 and CI67–477 will be most expeditiously disposed of by directing an order to show cause to Gulf Oil Corporation in these dockets similar to the orders to show cause heretofore issued in Docket No. CI65–974, *et al.*, and by consolidating Docket Nos. CI60–322 and CI67–477 with Docket No. CI65–974, *et al.* Thus the common questions of law and fact arising out of these dockets will be resolved without needless duplication of trial record.

The Commission finds:

(1) It is necessary and appropriate to carry out the provisions of the Natural Gas Act that the above-captioned Applicant appear and show cause, if any, as hereinafter ordered, why it should not be required to apply for and obtain, *nuno pro tunc*, certificate of public convenience and necessity authorizing the sale of gas which it has been making without authorization.

(2) It is necessary and appropriate in the public interest and to carry out the provisions of the Natural Gas Act that the request to abandon the original restricted use sale be determined herein.

(3) It is appropriate and in the public interest that Docket Nos. CI60–322 and CI67–477 be consolidated with Docket No. CI65–974, *et al.*, for hearing and decision as hereinafter ordered.

The Commission orders:

(A) The above-entitled Applicant shall appear and show cause, if any there be, why it should not be required to apply for, and obtain, *nunc pro tunc*, a certificate of public convenience and necessity authorizing it to make the sale specified in its application which it has previously made without authorization, and whether the initial price for such sale should not be fixed at the appropriate in-line price prevailing at the date delivery commenced for the area in which such sale is being made.

(B) The above-named Applicant shall also appear and show cause why it should not be required to refund the difference between the initial price determined in accordance with paragraph (A) above and the price actually charged for the related deliveries of gas. The date from which refunds shall be made, if any, by the Applicant shall be determined in this proceeding and evidence may be offered as to the appropriate amount of refunds, if any, and the date from which liability for such refunds should be fixed.

(C) Docket Nos. CI60–322 and CI67–477 are hereby consolidated with Docket No. CI65–974, *et al.* for hearing and decision. Gulf Oil Corporation shall respond to the Order to Show Cause directed to it in paragraphs (A) and (B) hereof and shall also comply with the procedures set up by the Examiner in Docket No. CI65–974, *et al.*

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

NORTHERN NATURAL GAS PIPELINE COMPANY, ET AL., DOCKET NO. CP66–307; NORTHERN NATURAL GAS COMPANY, CP66–308; SINCLAIR OIL & GAS COMPANY (OPERATOR), ET AL., CI66–410

ORDER DENYING MOTION TO RESCIND INTERVENTIONS

(Issued December 12, 1966)

On October 28, 1966, a joint motion was filed by Sinclair Oil & Gas Company (Sinclair), Skelly Oil Company (Skelly), Texaco Inc. (Texaco) and Tenneco Oil Company (Tenneco) requesting that the Commission rescind its orders granting Brooks Gas Corporation (Brooks Gas) and Brooks Pipe Line Company (Brooks Pipe Line) leave to intervene in these proceedings. The gravamen of the motion is that Brooks Gas and Brooks Pipe Line have not filed competitive applications and consequently their proposals to render a "mutually exclusive service" cannot be contested in a comparative hearing.

The motion is unsound. Even assuming it might be in the public interest to deny entry of other transportation facilities into the Eldorado Field, Brooks' willingness and ability to provide a reasonable accommodation to other producers in the field could well be another factor in determining where the public interest lies. The question here, however, is not the merits of the application but whether the Brooks interveners have standing to contest them.

As to this question the allegations set forth in their petitions to intervene show a reasonable likelihood that they would be adversely affected economically if the applications in question were granted. Accordingly, they are entitled to introduce any evidence reasonably related to the matters asserted in their petitions as demonstrating the grants would be contrary to the public interest.

The Commission orders:

For the above reasons the motion of Sinclair, Skelly, Texaco, and Tenneco to rescind the intervention of Brooks Gas Corporation and Brooks Pipe Line Company is denied.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

INVENTORY OF RECREATIONAL FACILITIES AT LICENSED HYDROELECTRIC PROJECTS, DOCKET NO. R-276

ORDER NO. 330

PRESCRIBING F.P.C. FORM 80

(Issued December 12, 1966)*

On July 15, 1965, the Commission gave notice (30 F.R. 9113, July 21, 1965) in this proceeding that it was proposing to prescribe rules providing for an inventory of existing and potential recreational use and development at hydroelectric projects licensed by the Commission pursuant to the Federal Power Act. These projects form a large segment of the nation's water-based recreation resources, which must be fully utilized if the rapidly expanding recreational needs of our people are to be met.

This proceeding is in furtherance of the Commission's program, more fully described in the notice herein, to insure such utilization. It is being conducted in cooperation with the Bureau of Outdoor Recreation of the Department of the Interior and other interested federal and state agencies. The information which the report form here prescribed is designed to supply is a necessary part of the program, for only through it will the Commission and other agencies know how present needs for recreational facilities are being met by the licensees of these projects, and where additional efforts should be made to meet these and future needs.

Of the responses listed below[1] one supported the proposal, three offered no objection, three opposed, and six suggested modification. While we are still of the opinion that the collection of this information is necessary to the progress of the recreational program, the modifications suggested by some of the respondents have enabled us to reduce the reporting burden substantially below that which would have been required by the rule as originally proposed.

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*Published in the Federal Register on December 17, 1966 (31 F.R. 16201).

[1] Urban America, Inc., Department of Water Resources of the State of California, Montana Power Co., New England Power Co., Pacific Gas and Electric Co., Philadelphia Electric Co., Virginia Electric & Power Co., Wisconsin Michigan Power Co., Appalachian Power Co., Duke Power Co., Georgia Power Co., Warrior River Electric Cooperative Association, and Riegel Textile Corporation.

More specifically, and of most significance, we have decided not to prescribe the separate Form 80–A which was proposed for use by licensees of projects under minor license. We are instead prescribing only one form (No. 80) which has been adapted to serve a dual purpose. The instructions to that form provide that certain portions thereof (Items F and G in Part 2; Items D and E in Part 3; and Part 8) may be omitted in reports relating to minor projects.

Several respondents having a number of developments under license complained that the regulation would create a substantial burden because of the comparatively short period of time and the frequency of reporting. We recognize that to require reports by a licensee which has several developments to inventory within the six-month period for the initial inventory might be unnecessarily burdensome. Any licensee who believes he will need additional time may make an application under § 1.13(d) of our Rules of Practice and Procedure for an extension of time, setting forth a schedule which he considers to be reasonable. We disagree, however, with the claim of hardship due to frequency of reporting (biennially) since reports filed subsequent to the initial filing in 1967 need be completed only to the extent necessary to update the data submitted in the original filing. Less frequent reporting, on the other hand, would not enable the Commission to keep abreast of the rapid increase in demand for and use of outdoor recreation facilities.

In response to other comments and suggestions, we have made some changes of a clarifying nature to the rule as proposed and have added a new Part 8 to the form proposed to replace the information previously requested in map form.

Two respondents suggested alternative methods of inventorying; in one system, only existing recreation facilities for projects licensed before June 1, 1963 (effective date of the "*Exhibit R*" rule, 18 CFR 4.41 *Exhibit R*) would be inventoried; in the other, only existing facilities would be counted until a Commission-industry task force could develop a superior method of inventorying planned facilities. We consider it necessary to have reasonably complete information on planned recreational development as soon as possible, in order to determine where future needs will be met by presently planned facilities and where still more development than is now contemplated will be needed. Neither of these alternative schemes would accomplish those objectives.

Other objections to the proposal are that the Commission (a) cannot impose on consumers the cost of recreation facilities at licensed projects, and (b) cannot unilaterally change recreation conditions in existing licenses, and consequently can make no use of the information required by the proposed inventory. The objections are misdirected for neither of these actions was proposed nor are they now being taken. We are merely requiring that information with respect to recreational facilities be furnished to assist us in the proper administration of the Federal Power Act as we are authorized to do pursuant to section 304(a).

The Commission finds:

(1) The amendments to the regulations and the prescription of a new report form, F.P.C. Form No. 80,* are necessary and appropriate for the administration of the Federal Power Act.

(2) The revisions made in the form originally proposed result from suggestions made in the comments received; and since they neither amount to a

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*Omitted in printing.

substantial departure from the original proposal nor impose further burdens on respondents, no further notice thereof prior to adoption is necessary.

The Commission, acting pursuant to the provisions of the Federal Power Act, and particularly sections 4(g), 10, 304, 309 and 311 thereof (41 Stat. 1065, 1068; 49 Stat. 839, 842, 855, 858, 859; 16 U.S.C. 797, 803, 825c, 825h, 825j), *orders:*

(A) (1) The title of Part 8, Subchapter B of Chapter I, Title 18 of the Code of Federal Regulations, is amended to read:

PART 8—RECREATIONAL OPPORTUNITIES AND DEVELOPMENT AT LICENSED PROJECTS

(2) The analysis at the head of the said Part 8, preceding § 8.1, is amended to include the following:

8.11 Information respecting use and development of public recreational opportunities.

(B) The following new section is added to the said Part 8:

§ 8.11 Information respecting use and development of public recreational opportunities.

(a) Except as provided in paragraph (b) hereof, each licensee of a project under major or minor Commission license shall prepare with respect to each such project owned and file by June 30, 1967, and biennially thereafter, an original and two conformed copies of F.P.C. Form 80 prescribed by § 141.14 of this chapter for use by licensees of projects under major and minor license. Forms filed subsequently to the 1967 filing need be completed only to the extent necessary to correct, supplement, update or add to the information supplied in a previously filed form. One copy of the report should be retained by the correspondent in its files.

(b) A licensee or applicant who submits a statement that it has previously filed an acceptable recreational use plan pursuant to a special license condition or § 4.41 *Exhibit R* of this chapter will not be required to file Form 80 until December 31, 1968 or at such time as may be required by a special license condition. Such statement shall indicate the document previously so filed and its status, *i.e.*, whether approved as being an accepted recreational use plan submitted pursuant to a special license condition, or as an *Exhibit R* in a pending license application, or as the case may be.

(C) The following new section is added to Part 141, Subchapter D of Chapter I, Title 18 of the Code of Federal Regulations:

§ 141.14 Form No. 80, Licensed Projects Recreation Report,

The form of report, Licensed Projects Recreation Report, designated as F.P.C. Form No. 80, for use by licensees in reporting information with respect to recreational use and development data relating to projects under major and minor license, is approved and prescribed for use as provided in § 8.11 of this chapter.

(D) The effective date of these amendments shall be December 31, 1966.

(E) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

EL PASO NATURAL GAS COMPANY, DOCKET NO. CP67-51

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued December 13, 1966)

On September 6, 1966, El Paso Natural Gas Company (Applicant), filed in Docket No. CP67-51 an application and supplement thereto on October 14, 1966, pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a limited-term, best efforts sale and delivery of natural gas to Pacific Gas and Electric Company (PG&E) by use of Applicant's existing facilities, all as more fully set forth in the application.

Applicant and PG&E have entered into a letter agreement dated July 28, 1966, whereby Applicant has agreed, *inter alia,* to sell and deliver to PG&E an additional and annual quantity of 36,500,000 Mcf of natural gas. The additional deliveries will be made for a limited-term, on an interruptible, best efforts basis, and will be additional to the presently certificated firm daily quantity of 1,025,000 Mcf.

The limited-term for which certification is requested will commence on a date coincident with receipt by PG&E from Applicant of all gas paid for but not taken by PG&E under Applicant's Rate Schedule G and deliverable under the Service Agreement between the parties dated September 13, 1965, or from January 1, 1967, whichever first occurs, through October 31, 1967.

Applicant proposes to render the additional service through maximum utilization of its presently certificated pipeline facilities at the existing point of interconnection between Applicant and PG&E's present systems located on the Arizona-California border. The additional service will be provided in such daily quantity of gas as Applicant has available and PG&E may request up to the extent of the available capacity of Applicant's existing facilities. Performance of the service will, however, be subject to the availability of natural gas from Applicant's several sources of supply and the satisfaction of priority requirements of Applicant's customers served from its pipeline system.

No additional pipeline facilities are proposed or required to be constructed by Applicant to enable it to render the proposed natural gas service.

The proposed sale and delivery to PG&E will be performed under Applicant's Rate Schedule G-X-2, FPC Gas Tariff, Volume No. 1.

After due notice a petition to intervene in support of the application was filed by PG&E on October 6, 1966, and a petition in opposition was filed by Transwestern on October 10, 1966. On November 2, 1966, Transwestern withdrew its said petition to intervene. No other petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on December 8, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, supplement and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, El Paso Natural Gas Company, a Delaware corporation having its principal place of business in El Paso, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the

Commission in its order of October 29, 1942, in Docket Nos. G-242 and G-257 (3 FPC 851).

(2) The proposed sale of natural gas, as hereinbefore described, and as more fully described in the application and exhibits in this proceeding are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed sale of natural gas is required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon El Paso's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b) and (e) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to the Applicant, El Paso Natural Gas Company, in this proceeding authorizing the sale of natural gas, as hereinbefore described and as more fully described in the application, supplement and exhibits herein, subject to the jurisdiction of the Commission, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a) and (e) of Section 157.20 of such Regulations.

(C) The service authorized shall be commenced, as provided by paragraph (b) of Section 157.20 of the aforesaid Regulations within six months of the date on which this order issues.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

GRANITE STATE GAS TRANSMISSION, INC., DOCKET NO. CP67-80

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued December 13, 1966)

On September 23, 1966, Granite State Gas Transmission, Inc. (Applicant), filed in Docket No. CP67-80 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities for the sale and delivery of additional volumes of natural gas to Allied New Hampshire Gas Company (Allied), an existing customer, for resale and distribution in the towns of East Kingston, Kensington, Hampton Falls and Plaistow, New Hampshire, all as more fully set forth in the application.

Specifically, Applicant proposes to construct and operate two taps and related metering facilities on its main pipeline in Rockingham County, New Hampshire, near the aforementioned towns of Plaistow and East Kingston, and to increase its maximum daily deliveries of natural gas to Allied from 3,570 Mcf to 3,855 Mcf, commencing with the 1966–67 winter season.

Estimated annual deliveries through the new delivery points are 19,970 Mcf in the first year and 65,200 Mcf in the third year of proposed operation. The Public Utility Commission of New Hampshire has authorized Allied to serve the aforementioned communities.

The total estimated cost of Applicant's proposed Plaistow delivery point is $9,900, and the estimated cost of its proposed East Kingston facilities is $10,197. These costs will be financed from funds on hand and Allied will later reimburse Applicant for the cost of the metering stations.

On October 20, 1966, Allied filed a petition for leave to intervene in the instant proceeding in order to protect its rights in the event the Commission determined that a formal hearing was required on the application filed in the subject docket.

After due notice, no other petition to intervene, notice of intervention or protest has been filed herein.

At a hearing held on December 8, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Granite State Gas Transmission, Inc., a New Hampshire corporation with its principal place of business in Portsmouth, New Hampshire, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of November 15, 1965, in Docket No. CP66–37.

(2) The facilities hereinbefore described and as more fully described in the application in this proceeding are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof and the transportation and sale of natural gas by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The construction and operation of the proposed facilities and the transportation and sale of natural gas by Applicant are required by the public convenience and necessity, and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Public convenience and necessity require that the certificate hereinafter issued and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of said Regulations.

(5) The certificate hereinafter issued should be conditioned upon Applicant's filing with the Commission an appropriate revised service agreement with Allied New Hampshire Gas Company in accordance with the Commission's Regulations under the Natural Gas Act.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant authorizing the construction and operation of the facilities and the transportation and sale of natural gas as hereinbefore described and as more fully set forth in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be completed and placed in actual operation and transportation and sale of natural gas authorized in paragraph (A) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act within three months from the date of this order.

(D) The certificate issued by paragraph (A) above is conditioned upon Applicant's filing with the Commission an appropriate revised service agreement with Allied New Hampshire Gas Company in accordance with the Commission's Regulations under the Natural Gas Act.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

THE MANUFACTURERS LIGHT AND HEAT COMPANY, DOCKET NO. CP67-58

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued December 13, 1966)

On September 8, 1966, The Manufacturers Light and Heat Company (Applicant) filed in Docket No. CP67-58 an application and an amendment thereto on November 10, 1966, pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 3.5 miles of 8-inch pipeline and metering and regulating facilities comprising a main line tap on Transmission Line No. 94 at Newell, Grant District, Hancock County, West Virginia, all as more fully set forth in the application and amendment thereto.

Applicant specifically requests authority to make a main line tap on Transmission Line No. 94 at Newell, Grant District, Hancock County, West Virginia, in order to provide a source of supply of natural gas for a new retail market area along the east bank of the Ohio River, southwest of Newell, which will be served by Applicant by a gas transmission pipeline to be constructed by Applicant which will extend from said tap in a southwesterly direction terminating at a point near the community of Arroyo, Hancock County, West Virginia. Third year (1969) market estimate in Mcf is:

	Annual	Peak day
(1) Custom Chemicals, Inc	80,000	240
(2) Air Reduction Company, Inc	101,000	375
(3) Waterford Park Race Track	40,000	200
(4) Reductioneering, Inc	40,000	200
Total	261,000	1,015

The total estimated cost of the project is $115,775 which cost will be financed from cash on hand.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on December 8, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, and exhibits submitted in support of the authorization, and upon consideration of the record,

The Commission finds:

(1) Applicant, The Manufacturers Light and Heat Company, a Pennsylvania corporation having its principal place of business in Pittsburgh, Pennsylvania, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of December 29, 1944, in Docket No. G-593, *et al.* (4 FPC 821).

(2) The proposed construction and operation of facilities and transportation and delivery of natural gas as hereinbefore described, and as more fully described in the application, and exhibits in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed construction and operation of facilities and transportation and delivery of natural gas are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to the Applicant in this proceeding, authorizing the construction and operation of facilities and transportation and delivery of up to 1015 Mcf per day of natural gas as hereinbefore described and as more fully described in the application, amendment and exhibits in this proceeding, subject to the jurisdiction of the Commission, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

(C) The transportation of gas authorized in paragraph (A) above shall commence as provided in paragraph (b) of Section 157.20 of the aforesaid Regulations within 6 months of the date on which this order issues.

(D) The certificate issued by paragraph (A) above shall not entitle the industrial customers to whom firm deliveries are authorized herein to any priorities or rights to additional gas for meeting any future increases in its requirements at the expense of firm resale customers desiring to acquire additional gas to meet any future increase in their requirements.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

NIAGARA MOHAWK POWER CORPORATION, DOCKET NO. E-6890; VIRGINIA ELECTRIC & POWER COMPANY, DOCKET NO. E-6910; NEW YORK STATE ELECTRIC & GAS CORPORATION, DOCKET NO. E-6911; SOUTH CAROLINA ELECTRIC & GAS COMPANY, DOCKET NO. E-6921; PORTLAND GENERAL ELECTRIC COMPANY, DOCKET NO. E-6922; ATLANTIC CITY ELECTRIC COMPANY, DOCKET NO. E-6924; CAROLINA POWER & LIGHT COMPANY, DOCKET NO. E-6925; CENTRAL HUDSON GAS & ELECTRIC COMPANY, DOCKET NO. E-6944

ORDER TERMINATING PROCEEDINGS

(Issued December 13, 1966)

This order terminates the above styled eight proceedings relating to the accounting and reporting practices of these companies arising from use of accelerated amortization and/or liberalized depreciation. Review of correspondence between the Commission's staff and these companies, and of annual report forms and other papers on file with this Commission indicates compliance with the accounting and reporting requirements of this Commission.[1]

These eight proceedings were initiated by orders to show cause issued over an eleven month interval in the latter half of 1959 and early 1960 as follows:

Niagara Mohawk Power Corporation, Docket No. E-6890, July 30, 1959, 22 FPC 157.

Virginia Electric & Power Company, Docket No. E-6910, December 7, 1959, 22 FPC 1012.

New York State Electric & Gas Corporation, Docket No. E-6911, December 16, 1959, 22 FPC 1047.

South Carolina Electric & Gas Company, Docket No. E-6921, January 8, 1960, 23 FPC 49.

Portland General Electric Company, Docket No. E-6922, January 7, 1960, 23 FPC 44.

Atlantic City Electric Company, Docket No. E-6924, January 24, 1960, 23 FPC 113.

Carolina Power & Light Company, Docket No. E-6925, February 1, 1960, 23 FPC 258.

Central Hudson Gas & Electric Company, Docket No. E-6944, June 7, 1960, 23 FPC 769.

The Commission finds:

It is necessary and appropriate for the purposes of the Federal Power Act and the Commission's Uniform System of Accounts that these proceedings be terminated.

The Commission orders:

The above captioned proceedings are hereby terminated.

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[1] On December 31, 1962, this Commission issued its opinion in *Appalachian Power Company*, Docket No. E-6900, 28 FPC 1199, affirmed 328 F. 2d 237 (CA4-1964), certiorari denied, 379 U.S. 829. Among other things the *Appalachian* opinion noted that Order No. 204 (19 FPC 837) required companies electing deferred tax accounting to record and report the accumulated accruals arising therefrom in balance sheet and income accounts now designated as Accounts 281, 282, 283, 410 and 411.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

UNITED GAS PIPE LINE COMPANY, DOCKET NO. CP67-30

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued December 13, 1966)

On August 10, 1966, United Gas Pipe Line Company (Applicant), filed in Docket No. CP67-30 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities in order to replace certain existing pipeline facilities and to provide additional pipeline capacity in order to meet the anticipated requirements of its customers in the Tyler, Texas area, Smith and Gregg Counties, Texas, all as more fully set forth in the application.

Applicant seeks authorization for the following:

(1) Construct approximately 0.9 mile of 12-inch loop on Applicant's existing 6-inch pipeline extending from the delivery line to Texas Eastern Transmission Corporation in Longview Compressor Station yard, in Gregg County, Texas;

(2) Construct 0.13 mile of 12-inch pipeline and 0.04 mile of 8-inch pipeline, and remove 0.11 mile of 10-inch yard piping at Longview Compressor Station, Gregg County, Texas;

(3) Construct 21.93 miles of 12-inch pipeline and remove or abandon 21.27 miles of 8-inch pipeline, beginning at approximately Milepost 40.5 on the existing 8-inch Waskom-Tyler line in Gregg County, Texas, and extending in a westerly direction to end at Milepost 61.7 in Smith County, Texas;

(4) Construct 2.15 miles of 10-inch pipeline, orifice meter station and appurtenant equipment, leaving in place the existing 2.05 miles of 8-inch line to serve rural sales and farm tap deliveries only, beginning at Tyler Junction at approximately Milepost 69.5 on the existing 8-inch Waskom-Tyler line and extending to Milepost 71.6 at the Tyler City Gate #1, all in Smith County, Texas.

Applicant states that it is necessary to replace the existing 8-inch pipeline on its Waskom-Tyler line with a 12-inch line because the existing 8-inch line has undergone, since its installation in 1925, subsequent erosion and washing, thereby reducing the amount of cover on portions of the line such that it does not fulfill its standard requirements.

Applicant estimates that the total net cost of the proposed facilities will be approximately $1,419,795.

Temporary authorization for the construction and operation of the proposed facilities was issued by letter dated September 15, 1966.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on December 8, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits submitted in support of the authorization sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, United Gas Pipe Line Company, a Delaware corporation having its principal place of business in Shreveport, Louisiana, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of November 10, 1942 in Docket No. G-232 (3 FPC 863).

(2) The proposed construction and operation of facilities by Applicant as hereinbefore described, and as more fully described in the application and exhibits in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid construction and operation of facilities are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (b), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to the Applicant in this proceeding authorizing the construction and operation of facilities hereinbefore described and as more fully described in the application and exhibits in this proceeding, subject to the jurisdiction of the Commission, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be completed and placed in actual operation, as provided by paragraph (b) of Section 157.20 of the aforesaid Regulations, within 12 months of the date on which this order issues.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

TRANSWESTERN PIPELINE COMPANY, DOCKET NO. CP64–34

ORDER FURTHER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued December 14, 1966)

On September 26, 1966, Transwestern Pipeline Company (Petitioner) filed in Docket No. CP64–34 a petition to amend further the Commission's order issued December 16, 1963, 30 FPC 1520, in the subject docket, as amended December 4, 1964, 32 FPC 1403, and December 27, 1965, 34 FPC 1560, to authorize Petitioner to sell and deliver up to 460,000 Mcf of gas per day on an annual average basis to Pacific Lighting and Gas Supply Company (Pacific Lighting) for a period ending April 1, 1967, or until the date of commencement of any new service resulting from the order accompanying Opinion No. 500, issued July 26, 1966, 36 FPC 176, in Docket No. CP63–204, *et al.*, whichever date is earlier. Petitioner also proposes to increase its maximum daily demand obligation for such deliveries to 460,000 Mcf, at a border pressure of 620 psig, effective January 1, 1967. Petitioner's proposals are more fully set forth in the subject petition to amend further.

The Commission's order issued December 16, 1963, as amended, authorized Petitioner, among other things, to increase its annual average deliveries to Pacific Lighting from 345,000 Mcf per day to 440,000 Mcf per day for a temporary period ending December 31, 1966, or until the commencement of a new service sought to be initiated in a proceeding pending before the Commission in Docket No. CP63–204, *et al.*, whichever date was earlier. The Commission has been advised that initiation of the new service authorized in Docket No. CP63–204, *et al.*, is expected to commence in the early part of 1967. Accordingly, Petitioner requests the subject extension of the authorization in Docket No. CP64–34.

Due notice of the filing of the petition to amend further and opportunity for hearing thereon has been given by publication in the Federal Register on October 8, 1966 (31 F.R. 13100). No protest or petition to intervene has been filed in this proceeding.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's order issued December 16, 1963, as amended, in Docket No. CP64–34 be further amended as hereinafter ordered.

The Commission orders:

(A) The Commission's order issued December 16, 1963, as amended, in Docket No. CP64–34 is further amended by increasing the volume of natural gas which may be sold and delivered by Petitioner to Pacific Lighting from 440,000 Mcf to 460,000 Mcf per day on an average annual basis and by extending the terms of the certificate for a period ending April 1, 1967, or until the date of commencement of any new service resulting from the order accompanying Opinion No. 500, issued July 26, 1966, in Docket No. CP63–204, *et al.*, whichever date is earlier, all as hereinbefore described and as set forth in the application to amend further. Further, Petitioner is authorized to increase its maximum daily demand obligation for Pacific Lighting to 460,000 Mcf, at a border pressure of 620 psig, effective January 1, 1967.

(B) Pursuant to the Commission's Regulations, Petitioner shall make any timely and appropriate rate filing which may be required as the result of the subject authorization.

(C) In all other respects said order, as amended, shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

WASHINGTON COUNTY UTILITY DISTRICT OF WASHINGTON COUNTY, TENNESSEE AND EAST TENNESSEE NATURAL GAS COMPANY, DOCKET NO. CP66–189

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued December 14, 1966)

On December 8, 1965, Washington County Utility District of Washington County, Tennessee (Applicant), filed in Docket No. CP66–189 an application, as supplemented on May 23, 1966, pursuant to Section 7(a) of the Natural Gas

Act for an order of the Commission directing East Tennessee Natural Gas Company (Respondent) to establish physical connection of its transmission facilities with the facilities proposed to be constructed by Applicant, and to sell and deliver up to 1,547 Mcf of natural gas per day to Applicant for resale and distribution in the Southwest and Northwest areas of Washington County, Tennessee, and in the adjacent areas of Sullivan County, Tennessee, all as more fully set forth in the application.

Applicant proposes to construct and operate two separate, non-integrated natural gas distribution systems to serve the aforementioned areas. Applicant also proposes to obtain taps from Respondent's existing transmission lines for each of the proposed systems.

On November 14, 1966, the Commission authorized Respondent, by order issued in Docket No. CP66-375, 36 FPC 844, to construct two 2,000 horsepower natural gas compressor stations on its North Line, one to be located near Greenbrier, Tennessee, and the other near Monterey, Tennessee. Said construction will increase Respondent's daily design capacity to approximately 235,338 Mcf per day and its sales capacity by 47,224 Mcf per day. The construction of the two compressor stations and the corresponding increase in design and sales capacity will enable Respondent to comply with the instant proposal.

Applicant's estimated annual and peak day natural gas requirements in the third year of proposed operations are 137,948 and 1,547 Mcf, respectively.

Respondent proposes to construct one of Applicant's proposed interconnections without cost to Applicant, and Applicant proposes to reimburse Respondent for its actual cost of constructing the second interconnection. The total estimated cost of Applicant's proposed facilities is $955,000. Included in this cost is $10,000, representing the reimbursement of Respondent's construction cost. An additional $82,000 construction cost will be incurred by Applicant during the first three years of service.

Applicant's cost of construction will be financed through the sale of natural gas revenue bonds in an amount of $955,000. Revenue generated from the proposed service will be used to finance the additional construction costs during the first three years of service.

Respondent's tariff (Section 4.1, FPC Gas Tariff Fourth Revised Volume No. 1) requires that Respondent bear the cost of installing, maintaining and operating, at or near each point of delivery, a measuring station properly equipped to measure the contract volumes. Thus, Applicant's contribution in aid of construction would be in violation of Respondent's tariff. Accordingly, the Commission will limit the subject order so as to require Respondent to bear the cost of both metering stations.

Correspondingly, Applicant's estimated initial cost of facilities will be reduced from $955,000, to $945,000, with the additional $82,000, cost of construction remaining constant.

On January 12, 1966, Respondent filed an answer to the application herein, stating that upon receipt of authorization for and construction of the requisite system capacity it would have no objection to establishing the physical connections and the service requested by Applicant. In view of the authorization granted by the Commission in the aforementioned Docket No. CP66-375, it appears that Respondent has no objection to the issuance by the Commission of an order as requested by Applicant.

On March 17, 1966, Volunteer Natural Gas Company filed with the Commission a petition to intervene in the instant proceeding. On August 5, 1966, Volunteer withdrew its petition to intervene after resolving its differences with Applicant as to franchise authority and division of service areas.

After due notice, no other petition to intervene, notice of intervention or protest has been filed herein.

The Commission finds:

(1) Respondent, East Tennessee Natural Gas Company, a Tennessee corporation having its principal place of business in Knoxville, Tennessee, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of May 3, 1949, in Docket No. G-1065 (8 FPC 836).

(2) Applicant, Washington County Utility District of Washington County, Tennessee, a corporation organized and existing under the laws of the State of Tennessee, is authorized to construct and operate natural gas facilities and distribute and sell natural gas as proposed.

(3) It is necessary and desirable in the public interest that Respondent be directed to establish physical connection of its natural gas transmission facilities with the proposed facilities of Applicant and to sell and deliver natural gas to Applicant, as set forth in the application and as hereinafter ordered and conditioned.

(4) This order should be conditioned as follows:

(a) Applicant shall execute a service agreement with Respondent in accordance with the Commission's Regulations.

(b) Applicant shall be ready to receive natural gas service from Respondent within one year after an order is issued in the instant application.

(c) Respondent shall bear the cost of construction, installation and maintenance of both of the interconnections proposed by Applicant together with the appurtenant metering facilities.

(5) The requirement that Respondent serve Applicant, as proposed, will not place any undue burden upon Respondent nor impair its ability to render adequate service to its existing customers.

The Commission orders:

(A) Respondent is directed to establish physical connection of its natural gas transmission system with the facilities to be constructed by Applicant and to sell and deliver up to 1,547 Mcf of natural gas per day to Applicant, all as hereinbefore described and as more fully described in the application.

(B) Applicant shall execute a service agreement with Respondent in accordance with the Commission's Regulations.

(C) Applicant shall be ready to receive natural gas service from Respondent within one year from the date of this order.

(D) Respondent shall bear the cost of construction, installation and maintenance of both of the interconnections proposed by Applicant together with the appurtenant metering facilities.

(E) Respondent shall notify the Commission of the commencement of service within 10 days thereof.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

MISSISSIPPI RIVER TRANSMISSION CORPORATION, DOCKET NO. CP67-52

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND ACCEPTING RATE FILINGS

(Issued December 16, 1966)

On September 6, 1966, Mississippi River Transmission Corporation (Applicant) filed in Docket No. CP67-52, as supplemented on October 18 and 28, 1966, an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and the sale and delivery, on a priority interruptible basis, of natural gas to its resale customers for a period ending October 31, 1967, all as more fully set forth in the application, as supplemented, in this proceeding.

Specifically, Applicant proposes to construct and operate a 3,280 horsepower turbine driven centrifugal compressor, together with appurtenant facilities, on its existing 18-inch East Line at a point in Clinton County, Illinois, immediately down-stream from the existing interconnection between Applicant's line and the 30-inch line of Natural Gas Pipeline Company of America.

Further, Applicant proposes to render priority interruptible service to its resale customers electing to receive such service pursuant to Applicant's proposed FPC Gas Rate Schedule PI-1. Such service under the proposed rate schedule is limited to a period ending October 31, 1967. The proposed compressor station will be utilized to transport during the winter season volumes of gas expected to be available from Applicant's East Line supply sources that Applicant would otherwise be unable to deliver because of the capacity limitations of the East Line. Applicant states that installation of the proposed compressor will provide some reserve capacity on its system, resulting in increased system flexibility and in safer and more reliable service for Applicant's customers.

The total estimated cost of the proposed facilities is $711,000, which cost will be financed from funds on hand.

On October 24, 1966, Applicant tendered for filing proposed Original Sheets Nos. 7A through 7E and First Revised Sheet No. 23 to its FPC Gas Tariff, First Revised Volume No. 1, providing for the proposed priority interruptible service. Also on October 24, 1966, Applicant tendered for filing proposed First Revised Sheets Nos. 8 and 10 to its FPC Gas Tariff, First Revised Volume No. 1, cancelling Rate Schedules E-1 and I-1, respectively. These last two rate schedules are those under which Applicant presently sells gas on an interruptible basis to its resale customers.

On October 7, 1966, Owens Illinois, Inc. and Granite City Steel Company, *et al.*, * filed petitions to intervene in this proceeding; however, on October 17, 1966, said petitions were withdrawn. Several other petitions to intervene have been filed herein. None of said other petitioners requests formal hearing in this proceeding. Inasmuch as the shortened procedure is being used herein, no further action on said other petitions appears necessary.

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*Granite City Steel Company, Cerro Copper & Brass Company, Laclede Steel Company, National Lead Company–Titanium Division, Olin Mathieson Chemical Corporation, and the Pittsburgh Plate Glass Company.

After due notice, no other petition to intervene, notice of intervention or protest to the granting of the application, as supplemented, has been filed.

At a hearing held on December 15, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, supplements and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Mississippi River Transmission Corporation, a Delaware corporation having its principal place of business in St. Louis, Missouri, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of November 29, 1960 in Docket No. CP60-95 (24 FPC 1020).

(2) The facilities hereinbefore described, as more fully described in the application, as supplemented, in this proceeding, are to be used in the transportation and sale of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof and the proposed transportation and sales of natural gas for a period ending October 31, 1967, by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities and the proposed transportation and sales of natural gas for a period ending October 31, 1967, by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

(6) Applicant's proposed Original Sheets Nos. 7A through 7E and First Revised Sheet No. 23 to its FPC Gas Tariff, First Revised Volume No. 1, should be accepted for filing to become effective on the date this order issues and to remain effective only for the period ending October 31, 1967.

(7) Applicant's proposed First Revised Sheets Nos. 8 and 10 to its FPC Gas Tariff, First Revised Volume No. 1, should be accepted for filing to become effective on the date this order issues.

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Applicant, Mississippi River Transmission Corporation, to construct and operate the proposed facilities and to sell and deliver natural gas for a period ending October 31, 1967, as hereinbefore described, all as more fully described in the application, as supplemented, in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be constructed and placed in actual operation and the sales and delivery of natural gas authorized in paragraph (A) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within 6 months from the date on which this order issues.

(D) Applicant's proposed Original Sheets Nos. 7A through 7E and First Revised Sheet No. 23 to its FPC Gas Tariff, First Revised Volume No. 1, are accepted for filing to become effective on the date this order issues and to remain effective only for the period ending October 31, 1967. Applicant shall file appropriate service agreements with those customers electing to receive such service.

(E) Applicant's proposed First Revised Sheets Nos. 8 and 10 to its FPC Gas Tariff, First Revised Volume No. 1, are accepted for filing to become effective on the date this order issues.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

PUBLIC WORKS COMMISSION OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA

v.

CAROLINA POWER & LIGHT COMPANY, DOCKET NO. E-7256

ORDER ACCEPTING RATE SCHEDULE FOR FILING EFFECTING RATE REDUCTION, GRANTING WAIVER OF NOTICE REQUIREMENTS, AND PERMITTING WITHDRAWAL OF COMPLAINT

(Issued December 16, 1966)

This order accepts for filing a rate schedule[1] effecting a $238,000 rate reduction by Carolina Power & Light Company (Carolina) to the Public Works Commission of the City of Fayetteville (Fayetteville) submitted pursuant to a settlement agreement proposed by Fayetteville and Carolina in this docket; waives the prior notice requirements of the Commission's Regulations, thus allowing the reduction to become effective December 1, 1966; and permits Fayetteville to withdraw its complaint against Carolina, thus terminating this proceeding.

Fayetteville initiated this matter by a complaint filed November 19, 1965, seeking a rate reduction in Carolina's wholesale rates and charges to Fayetteville which is an all-requirements customer of Carolina. Following Carolina's answer, settlement conferences were held. The settlement proposal embodying the rate reduction presently before the Commission resulted from these conferences. Concurrently with Carolina's filing on December 7, 1966 of the settlement agreement and rate schedule, Fayetteville submitted for our consideration a notice of withdrawal of its complaint.

As indicated above, under the terms of the settlement agreement, Carolina would reduce its rates to Fayetteville by approximately $238,000 annually (based on figures for 12 months ending September 30, 1966). The new agreement would run for a term of seven years, cancellable by either party at the end of that period upon three years notice. Fayetteville has stated that it will pass on to ultimate consumers the entire rate reduction. In addition,

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[1] Designated in the Commission's files as: Carolina Power & Light Company Rate Schedule F.P.C. No. 93, superseding Rate Schedule F.P.C. No. 80 and Exhibit A thereto.

Carolina states that upon acceptance for filing of the Fayetteville rate schedule by the Commission, it will submit for filing a similar rate reduction for its 23 other municipal customers and two small investor-owned wholesale customers, also to become effective December 1, 1966.

The demand and energy portions of the rate are as follows:

$1.75 per kw for the first 400 kw of demand.
$1.35 per kw for the next 5,600 kw of demand.
$1.25 per kw for all additional kw of demand.
0.65¢ per kwh for the first 125,000 kwh.
0.55¢ per kwh for the next 125,000 kwh.
0.47¢ per kwh for the next 2,250,000 kwh.
0.43¢ per kwh for all additional kwh.

By accepting the proffered rate schedule we do not determine what would be the fair rate of return for Carolina to earn upon its wholesale electric business, nor the basis for disposition of disputed items in the respective cost of service data exchanged by Carolina and the staff, as would be done were this proceeding terminated following a complete trial of all issues. Our rate making authority is a continuing process and disposition of this proceeding on the indicated basis in no way limits our ability to re-examine Carolina's wholesale rates and charges at any time hereafter. In disposing of this case upon the basis of the proffered rate schedule and resulting revenue, we take note of the immediate rate relief which will be afforded thereby.

The Commission finds:

(1) Good cause has been shown that the 30-day notice period provided in Section 35.3 of the Commission's Regulations under the Federal Power Act be waived with respect to Carolina's rate schedule filing referred to above and designated as Carolina's Rate Schedule F.P.C. No. 93, and that such rate schedule be accepted for filing and allowed to take effect as of December 1, 1966.

(2) It is necessary and appropriate for the purposes of the Federal Power Act that Fayetteville be permitted to withdraw its complaint against Carolina and that this proceeding thereby be terminated.

The Commission orders:

(A) The 30-day notice period provided in Section 35.3 of the Commission's Regulations under the Federal Power Act is waived with respect to the proposed rate schedule as referred to above and designated as Carolina's Rate Schedule F.P.C. No. 93 and the rate schedule is accepted for filing and allowed to take effect as of December 1, 1966.

(B) The issuance of this order shall constitute full notice of the filing and publication of the rate schedule in question insofar as its effective date is concerned.

(C) Acceptance of Carolina's rate schedule as herein provided is without prejudice to any findings or orders which have been or may hereafter be made by this Commission in any proceeding by or against Carolina. Moreover, nothing in this order shall be construed as waiver in any other respect of the requirements of Section 205 of the Federal Power Act or Section 35.11 of the Commission's Regulations under the Federal Power Act; nor shall this order be construed as constituting approval by this Commission of any service, rate, charge, classification, or any rule, regulation, contract or practice affecting such service or rate provided for in the rate schedule referred to above and designated as Carolina's Rate Schedule F.P.C. No. 93; nor shall this order be deemed as recognizing any claimed contractual right or obligation affecting or relating to such service or rates.

(D) Fayetteville is granted permission to withdraw its complaint in this docket and this proceeding is terminated.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

UNITED GAS PIPE LINE COMPANY, DOCKET NO. CP67-21

ORDER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued December 16, 1966)

On July 28, 1966, United Gas Pipe Line Company (Applicant), filed in Docket No. CP67-21 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities for the sale and delivery of additional natural gas to the Town of Rayville (Rayville), Richland Parish, Louisiana, to meet the additional requirements of Rayville's electric generating plant as set out in Applicant's contract with Rayville, all as more fully set forth in the application.

Applicant was authorized to install and operate dual 500-B metric meters, together with appurtenant equipment, located at the Rayville Town Border Station site, Rayville, Louisiana, replacing existing dual No. 4 Emco meters.

Applicant, by paragraph (C) of the order of the Commission issued on December 6, 1966, *supra*, p. 992, was required to construct and place in operation the authorized facilities by January 1, 1967. Applicant has requested that the date for commencement of operation thereof be extended to March 1, 1967.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's order issued December 6, 1966, in Docket No. CP67-21 be amended as hereinafter ordered.

The Commission orders:

(A) The Commission's order issued December 6, 1966, in Docket No. CP67-21 is amended so as to extend the time for completion of the authorized facilities from January 1, 1967 to March 1, 1967.

(B) In all other respects said order shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

LONE STAR GAS COMPANY, DOCKET NO. CP67-124

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued December 19, 1966)

On November 2, 1966, Lone Star Gas Company (Applicant) filed in Docket No. CP67-124 a "budget-type" application pursuant to Section 7(c) of the

Natural Gas Act, as implemented by Section 157.7(c) of the Regulations under the Act, for a certificate of public convenience and necessity authorizing the construction during the calendar year 1967 and the operation of certain miscellaneous gas sales transportation facilities for the purpose of making direct sales of natural gas, all as more fully set forth in the application.

Specifically, Applicant proposes to construct and operate facilities to be utilized for direct sales of natural gas to industrial customers located in areas outside of the franchise areas of any local distributor. The maximum delivery to any one customer will not exceed 100,000 Mcf of natural gas annually and the gas will not be sold for boiler fuel purposes as defined by Section 157.7(c)(9) of the Regulations under the Natural Gas Act.

The total estimated cost of Applicant's proposed facilities will not exceed $75,000, with each individual project limited to a maximum cost of $15,000. Applicant proposes to finance its cost of construction from cash on hand.

After due notice, no petition to intervene, notice of intervention or protest has been filed herein.

At a hearing held on December 15, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Lone Star Gas Company, a Texas corporation having its principal place of business in Dallas, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of April 11, 1944, in Docket No. G-442 (4 FPC 565).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are proposed to be used in the transportation and sale of natural gas in interstate commerce and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (c)(1)(ii), (c)(2) and (c)(7) of Section 157.7 and paragraphs (a), (e), (f) and (g) of Section 157.20 of said Regulations.

(6) The authorization hereinafter granted should be limited to construction during the calendar year 1967 and the total expenditures for facilities to be constructed thereunder should be limited to a maximum of $75,000, with the total deliveries to any one direct industrial customer not to exceed a maximum of 100,000 Mcf of natural gas per year.

(7) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Applicant should submit within 60 days after the expiration of the authorization granted hereinafter, a statement in compliance with Section 157.7(c)(8) of the Commission's Regulations under the Natural Gas Act.

(8) The certificate issued hereinafter should not entitle the industrial customers to whom firm deliveries are authorized to any priorities or rights to additional gas for meeting any future increases in their requirements at the expense of resale customers desiring to acquire additional gas to meet any future increases in their requirements.

The Commission orders:

(A) Upon the terms and conditions of this order, a certificate of public convenience and necessity is issued authorizing Applicant to construct during the calendar year 1967 the proposed facilities hereinbefore described, as more fully described in the application in this proceeding, and to operate such facilities for miscellaneous rearrangements and to sell natural gas to distributors for resale as hereinafter provided.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (c)(1)(ii), (c)(2) and (c)(7) of Section 157.7 and paragraphs (a), (e), (f) and (g) of Section 157.20 of said Regulations.

(C) The authorization granted in paragraph (A) above is limited to construction during the calendar year 1967 and the total expenditures for facilities to be constructed thereunder are limited to a maximum of $75,000, with the total deliveries to any one direct industrial customer limited to a maximum of 100,000 Mcf of natural gas per year.

(D) Applicant shall submit within 60 days after the expiration of the authorization granted by paragraph (A) above a statement in compliance with Section 157.7(c)(8) of the Commission's Regulations under the Natural Gas Act.

(E) The certificate issued shall not entitle the industrial customers to whom firm deliveries are authorized to any priorities or rights to additional gas for meeting any future increases in their requirements at the expense of resale customers desiring to acquire additional gas to meet any future increases in their requirements.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

MIDWESTERN GAS TRANSMISSION COMPANY, DOCKET NOS. G-18313, CP66-172

ORDER FURTHER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued December 19, 1966)

On October 4, 1966, Midwestern Gas Transmission Company (Petitioner), filed in Docket Nos. G-18313 and CP67-172 a petition to amend the orders issued in the said dockets on October 31, 1959, 22 FPC 775, and March 25, 1966, 35 FPC 416, respectively, by requesting authorization to extend the term of the contract dated March 25, 1966, between Petitioner and Trans-Canada Pipe Lines, Limited (Trans-Canada), all as more fully set forth in the petition to amend.

The order of March 25, 1966, in Docket No. CP66–172, *et al.*, authorized Petitioner to sell up to 25,000 Mcf of natural gas per day to its existing northern system customers on an interruptible basis for a term ending on October 31, 1966. That order also, by further amending paragraph (M) of the Commission's order issued October 31, 1959, in Docket No. G–18313, *et al.*, as amended by order issued August 10, 1965, 34 FPC 457 in Docket No. CP64–308, *et al.*, authorized Petitioner to import on an interruptible basis up to 25,000 Mcf of natural gas daily from Trans-Canada during the same term.

Petitioner commenced service to its northern system customers as authorized and commenced the importation of natural gas as authorized from Trans-Canada. Recently Petitioner has received requests from its northern customers for an extension of the availability of the interruptible service after October 31, 1966.

Petitioner specifically requests that the Commission's order of March 25, 1966, in Docket No. CP66–172, *et al.*, be amended to extend the term of such authorization for a period terminating on November 1, 1967, and that the Commission's order of October 31, 1959, in Docket No. G–18313, *et al.*, be further amended to authorize the continued importation of 25,000 Mcf per day of natural gas on an interruptible basis for the same term.

Due notice of the filing of the application to amend and opportunity for hearing thereon has been given by publication in the Federal Register on October 15, 1966 (31 F.R. 13400). No protest or petition to intervene has been filed in the proceeding concerning this amendment.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act, and the public convenience and necessity require that the order of the Commission issued on March 25, 1966 in Docket No. CP66–172 be amended so as to extend the term of such authorization for a period terminating on November 1, 1967, and that the Commission's order of October 31, 1959 in Docket No. G–18313, *et al.*, be further amended so as to authorize the continued importation of 25,000 Mcf per day of natural gas on an interruptible basis for the same term on the following conditions:

(1) Midwestern shall file an amendment to its contract of March 25, 1966 with Trans-Canada which shall incorporate in said contract the conditions set out in the letter agreement between the parties dated September 16, 1966.

(2) Trans-Canada shall obtain necessary authorization from the appropriate Canadian regulatory authorities.

(3) Midwestern shall make such rate filings as may be necessary in order that its TGS–2 rate shall continue to reflect its CD–2 rate at 200 percent load factor.

The Commission orders:

(A) The order of the Commission issued on March 25, 1966 in Docket No. CP66–172 is amended so as to extend the term of such authorization for a period terminating on November 1, 1967, and the Commission's order of October 31, 1959 in Docket No. G–18313, *et al.*, is further amended so as to authorize the continued importation of 25,000 Mcf per day of natural gas on an interruptible basis for the same term on the conditions that:

(1) Midwestern shall file an amendment to its contract of March 25, 1966 with Trans-Canada which shall incorporate in said contract the conditions set out in the letter agreement between the parties dated September 16, 1966.

(2) Trans-Canada shall obtain necessary authorization from the appropriate Canadian regulatory authorities.

(3) Midwestern shall make such rate filings as may be necessary in order that its TGS-2 rate shall continue to reflect its CD-2 rate at 200 percent load factor.

(B) In all other respects said order shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

NORTHERN NATURAL GAS COMPANY, DOCKET NO. CP67-79

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued December 19, 1966)

On September 23, 1966, Northern Natural Gas Company (Applicant), filed in Docket No. CP67-79 an application and on November 4, 1966 a supplement thereto pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition and operation of certain facilities of Northern Natural Gas Pipeline Company (Pipeline) and the transportation and sale of natural gas in interstate commerce, all as more fully set forth in the application.

Applicant proposes to acquire by merger from and operate the jurisdictional facilities of its wholly owned subsidiary, consisting of approximately 150 miles of main, lateral and gathering pipelines varying in diameter from 3.5 inches to 16 inches, a compressor station with total horsepower of 2,720 and 3 treatment plants all located in Val Verde, Sutton, Schleicher and Crockett Counties, Texas.

Applicant purchased all of the outstanding securities of Pioneer Gathering System, Inc. on June 30, 1961, and since that date has been operating such company as a wholly owned subsidiary under the name of Northern Natural Gas Pipeline Company.

The application states that upon dissolution of Pipeline, Applicant will continue to render service to Pioneer Natural Gas Company through the facilities now owned by Pipeline Company. Pipeline sells to Northern, pursuant to its FPC Rate Schedule P-1, at a rate of 14.0 cents per Mcf. Sales to Pioneer are pursuant to contract provisions at 17.0 cents per Mcf.

Under FPC Rate Schedules T-1, natural gas is exchanged and transported for El Paso and under FPC Rate Schedule T-2 gas is transported for Northern, both at a rate of 1.75 cents per Mcf. In addition, a small amount of gas is transported for Northern (FPC Rate Schedule T-3) at 0.04 cents per Mcf. All measurements are at 14.65 psia.

Upon acquisition, Northern will continue serving Pioneer and the transportation and exchange with El Paso will be continued. Applicant's Rate Schedules P-1, T-2 and T-3 will be cancelled.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

Northern proposes to effectuate the merger on December 31, 1966, and thereby simplify accounting and bookkeeping of the consolidation. It also requests that all authorizations and orders, as supplemented or amended, be amended by substituting its name for Pipeline's.

At a hearing held on December 15, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, supplement and exhibits, submitted in support of the authorizations sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, Northern Natural Gas Company, a Delaware corporation having its principal place of business in Omaha, Nebraska, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of April 6, 1943, in Docket No. G–280 (3 FPC 967).

(2) The proposed acquisition and operation of facilities, as hereinbefore described and as more fully described in the application and exhibits, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed acquisition and operation of facilities are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (d)(2), (d)(3), (e) and (f) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant authorizing the acquisition and operation of facilities, as hereinbefore described and as more fully described in the application, and exhibits filed in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (d)(2), (d)(3), (e) and (f) of Section 157.20 of such Regulations.

(C) The facilities authorized by paragraph (A) above shall be acquired as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, by December 31, 1966.

(D) All authorizations and orders issued to Pipeline, as supplemented or amended, are hereby amended by substituting Northern Natural's name for Pipeline's.

(E) Within 30 days after the issuance of this order Applicant shall make appropriate filing of notices of cancellation of Pipeline's Rate Schedules P–1, T–2 and T–3.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

PORTLAND GENERAL ELECTRIC COMPANY, PROJECT NO. 2030

ORDER APPROVING REVISED AND ORIGINAL PROJECT EXHIBIT L DRAWINGS AND REVISED EXHIBIT M

(Issued December 19, 1966)

On July 1, 1966, Portland General Electric Company, licensee for Project No. 2030 located on the Deschutes River in Oregon, filed for Commission approval "as built" revised and other Exhibit L drawings and revised Exhibit M for the Round Butte development. The exhibits were filed pursuant to Article 5 of the license.

The exhibits show that the project has been built substantially as shown on license Exhibits L and M approved by Commission order issued on September 12, 1960, 24 FPC 408. The "as built" drawings reflect minor changes made to the original project design and layout resulting from additional project design studies, foundation conditions revealed following actual excavation, and the characteristics of the construction materials used during construction. The changes referred to are such as location of power and spillway intakes, powerhouse alignment, increase in dam width at crest from 35 to 44 feet, and redesign of spillway structures.

By letter of October 12, 1966, the Department of the Interior advises that its Fish and Wildlife Service considers that the Exhibit L drawings for the fish facilities adequately depict the fish facilities installed except there is no drawing to show the floating collector for the downstream migrant fish. However, the latter facility was used during the filling of the reservoir until the lake reached sufficient elevation to operate the permanently installed downstream migrant facilities shown on Sheets Nos. 7 and 8 (FPC No. 2030–157 and –158). Since the collector for the migrants is not a permanent facility and was used only for a limited period it need not be included as a project work under the license but costs associated with the collector may be allowed.

The Commission finds:

The following described exhibits conform to the Commission's rules and regulations and should be approved as part of the license for the project, and the license exhibits described herein as being superseded should be eliminated from the license for the project:

Exhibit L:

Revised sheet No.	FPC No.	Title	Superseding FPC No.
1	2030–151	General plan	2030–97
2	2030–152	Typical sections	2030–98
3	2030–153	Spillway diversion and power tunnels	2030–99
4	2030–154	Spillway and power tunnel intake and control structures.	2030–100
5	2030–155	Powerhouse plans and sections	2030–101
6	2030–156	Fish facilities upstream migrant structure	
7	2030–157	Fish facilities downstream migrant structure	
8	2030–158	Fish facilities downstream migrant locking tank and facilities diagrammatic layout.	

Exhibit M (Revised): Comprising two typewritten pages filed July 1, 1966, superseding Exhibit M filed March 19, 1959.

The Commission orders:

The exhibits designated and described in the above finding as conforming to the Commission's rules and regulations are hereby approved as part of the license for Project No. 2030, and the superseded license exhibits described in the same finding are hereby eliminated from the license for the project.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

SOUTHERN NATURAL GAS COMPANY, DOCKET NO. CP67–96

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued December 19, 1966)

On October 14, 1966, Southern Natural Gas Company (Applicant), filed in Docket No. CP67–96 a "budget-type" application pursuant to Section 7(c) of the Natural Gas Act as implemented by Section 157.7(c) of the Regulations under the Act for a certificate of public convenience and necessity authorizing the construction during the twelve-month period extending from December 30, 1966 through December 29, 1967, and operation of certain natural gas facilities to be used in the transportation and sale of natural gas in interstate commerce, all as more fully set forth in the application.

Specifically, Applicant seeks authorization to construct and operate facilities to make sales of natural gas to existing distributors in existing market areas, facilities to make direct sales of natural gas to consumers located in areas outside the franchise area of any local natural gas distributor, and facilities representing miscellaneous rearrangements of existing facilities, not resulting in any change in service.

Applicant's proposed construction will consist of line taps, metering and regulating stations, and various types of pipelines, including lateral and loop pipelines.

Deliveries by Applicant to any one distributor or consumer through the proposed facilities will not exceed 100,000 Mcf of natural gas annually and will not be used by the distributor or consumer for "boiler fuel purposes" as defined in Section 157.7(c)(9) of the Commission's Regulations.

The total estimated cost of Applicant's proposed facilities will not exceed a cost of $300,000, with no single project exceeding a cost of $50,000. Applicant will finance its cost of construction from funds on hand or from funds generated from operations.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on December 15, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Southern Natural Gas Company, a Delaware corporation having its principal place of business in Birmingham, Alabama, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of October 6, 1942, in Docket No. G–296 (3 FPC 822).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are proposed to be used in the transportation and sale of natural gas in interstate commerce and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (c)(1), (c)(2), (c)(3) and (c)(7) of Section 157.7 and paragraphs (a), (e), (f) and (g) of Section 157.20 of said Regulations.

(6) The authorization hereinafter granted should be limited to the period extending from December 30, 1966, through December 29, 1967, and the total expenditures for facilities to be constructed thereunder should be limited to a maximum of $300,000, with no single project to exceed a cost $50,000, and the total deliveries to any one customer not to exceed a maximum of 100,000 Mcf of natural gas per year.

(7) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Applicant should submit within 60 days after the expiration of the authorization granted hereinafter, a statement in compliance with Section 157.7(c)(8) of the Commission's Regulations under the Natural Gas Act.

The Commission orders:

(A) Upon the terms and conditions of this order, a certificate of public convenience and necessity is issued authorizing Applicant to construct during the period extending from December 30, 1966, through December 29, 1967, the proposed facilities hereinbefore described, as more fully described in the application in this proceeding, and to operate such facilities to sell natural gas to distributors for resale and to direct customers as hereinafter provided.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (c)(1), (c)(2), (c)(3) and (c)(7) of Section 157.7 and paragraphs (a), (e), (f) and (g) of Section 157.20 of said Regulations.

(C) The authorization granted in paragraph (A) above is limited to construction during the period extending from December 30, 1966, through December 29, 1967, and the total expenditures for facilities to be constructed thereunder are limited to a maximum of $300,000, with no single project to exceed a cost of $50,000, and the total deliveries to any one customer not to exceed a maximum of 100,000 Mcf of natural gas per year.

(D) Applicant shall submit within 60 days after the expiration of the authorization granted by paragraph (A) above a statement in compliance with Section 157.7(c)(8) of the Commission's Regulations under the Natural Gas Act.

(E) The certificate issued shall not entitle the industrial customers to whom firm deliveries are authorized herein to any priorities or rights to additional gas for meeting any future increases in their requirements at the expense of resale customers desiring to acquire additional gas to meet any future increases in their requirements.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

TEXAS GAS TRANSMISSION CORPORATION, DOCKET NO. CP67-85

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued December 19, 1966)

On September 28, 1966, Texas Gas Transmission Corporation (Applicant) filed in Docket No. CP67-85 an application and supplement thereto on October 31, 1966, pursuant to Section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the construction and operation of a 2-inch side valve and a positive meter station south of Applicant's Petersburg Compressor Station on its existing 12-inch line in Warrick County, Indiana, all as more fully set forth in the application and supplement thereto.

Applicant seeks authority to establish a new delivery point for Southern Indiana Gas and Electric Company (Southern Indiana), an existing customer. Natural gas delivered through this delivery point is for resale by Southern Indiana to the town of Elberfeld, Warrick County, Indiana and its environs and in rural areas in Vanderburgh and Warrick Counties, Indiana.

Annual and peak day requirements associated with service to Elberfeld are 24,920 Mcf and 274 Mcf respectively. No increase in the contract demand of Southern Indiana is proposed for this service.

The cost of the facility is estimated to be $6,000 and will be financed from cash on hand.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application, has been filed.

At a hearing held on December 15, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, supplement and exhibits, submitted in support of the authorization sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, Texas Gas Transmission Corporation, a Delaware corporation having its principal place of business in Owensboro, Kentucky, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of March 30, 1948, in Docket No. G-855 (7 FPC 213).

(2) The proposed construction and operation of facilities, and the sale of natural gas in interstate commerce, as hereinbefore described and as more fully described in the application, filed in this proceeding, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) The aforesaid proposed construction and operation of facilities, and the

sale of natural gas in interstate commerce are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(4) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act, and the requirements, rules and regulations of the Commission thereunder.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, Texas Gas Transmission Corporation, authorizing the construction and operation of facilities, and the sale of natural gas as hereinbefore described, all as more fully described in the application, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be completed and placed in actual operation, and the sale of natural gas authorized in paragraph (A) above shall commence as provided in paragraph (b) of Section 157.20 of the aforesaid Regulations within 12 months of the date on which this order issues.

(D) Applicant shall file pursuant to Part 154 of the Commission's Regulations an acceptable revised service agreement reflecting the terms and conditions of sale and delivery at the new delivery point to Southern Indiana Gas and Electric Company.

OPINION NO. 509

TRANSCONTINENTAL GAS PIPE LINE CORPORATION, DOCKET NO. CP66-150

OPINION AND ORDER GRANTING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued December 19, 1966)*

Syllabus

1. Proposed 16-inch Tryon lateral, as opposed to 12-inch line, offers opportunity for large additional growth and additional net revenues more than sufficient to cover comparatively little additional cost—this does not mean that once it is determined lateral will earn adequate return Commission shall automatically accept management's judgment that it be built. P. 1062.
2. In future proceedings, Commission expects record to be developed to show as clearly as possible whether proposed lateral is or is not unnecessarily large in light of expected market development. P. 1062.

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*Initial decision appears on p. 1070.

3. Since lateral will earn adequate return even with no increases above sales proposed to distributors, Commission is justified in granting pipeline's request to build line long enough to take care of increases in load in next decade or more. P. 1063.
4. To limit size of line here because of its potential use in channeling off-peak or valley gas to distributor's area to the benefit of firm customers of both pipeline and distributor would represent protection of Coal Interests from competition at expense of gas consumers. P. 1063.
5. Since 16-inch lateral will earn adequate return, prior cases requiring filing of contracts to show economic feasibility are not applicable. P. 1063.
6. Non-discriminatory treatment of all Transco's customers requires extension of line beyond Tryon in accordance with its lateral line formula. P. 1064.
7. Order No. 328 is not intended to require that a pipeline state the considerations which might lead it voluntarily to provide new or increased service to a customer. P. 1065.
8. Commission does not intend by lateral line formula to take away a pipeline's discretion to build a lateral, but if lateral is built voluntarily or required by Commission order, pipeline must build or furnish funds for building in order to treat its customers equitably. P. 1065.
9. In a proceeding under Section 7 of the Natural Gas Act, Commission *issues* certificate of public convenience and necessity authorizing Tryon lateral and requires pipeline to file lateral line extension formula as part of tariff.

Commissioner Ross *concurring* in part; *dissenting* in part.

Richard J. Connor, *Thomas F. Ryan*, *Lawrence M. Gall*, *William N. Bonner, Jr.* and *R. Kent Burns* for the Transcontinental Gas Pipe Line Corporation.

R. Kent Burns for the Public Service Company of North Carolina.

Kenneth Brim, *Harry S. Littman* and *Dale A. Wright* for the Piedmont Natural Gas Company.

James L. Bomar, Jr. and *John C. Shofner* for the United Cities Gas Company.

Stanley M. Morley for the Carolina Natural Gas Corporation.

John A. McGrath for Fuels Research Council, Inc., National Coal Association and the United Mine Workers of America.

Edward B. Hipp for the North Carolina Utilities Commission.

David S. Lichtenstein for the Staff of the Federal Power Commission.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

O'CONNOR, *Commissioner:*

This is a proceeding under Section 7(c) of the Natural Gas Act in which Transcontinental Gas Pipe Line Corporation (Transco) seeks a certificate of public convenience and necessity authorizing facilities to increase the capacity of its mainline transmission system, the construction of a lateral to Tryon, North Carolina, and the sale for resale of an additional 22,556 Mcfd of gas to two of its customers, the Public Service Company of North Carolina, Inc. (Public Service) and the Piedmont Natural Gas Company (Piedmont).

Transco's application was filed November 12, 1965, was supported by its customers, and was opposed by the Coal Interests (Fuels Research Council, Inc., the National Coal Association and the United Mine Workers of America). After the hearing was completed and briefs exchanged, Transco, on June 7, 1966, filed an application for a temporary certificate or, alternatively, a motion for omission of the intermediate decision of the examiner alleging need of the facilities to render service for the winter season 1966–1967, but the Commission by order of July 7, 1966, 36 FPC 25, found no showing of a clearly defined emergency and denied both requests. On August 22, 1966, the Presiding Examiner, Harry C. Shriver, issued his decision granting Transco a certificate with certain conditions.

On August 24, 1966, alleging the need for the Tryon lateral this winter, Transco filed a second motion for a temporary certificate to construct the Tryon lateral, to be used to serve Public Service and Piedmont. On September 30, 1966, the Commission by letter granted a temporary certificate, limiting deliveries through the Tryon lateral to 18,000 Mcfd and providing that should the Commission deny a permanent certificate the cost of the facilities should not be included in Transco's rate base. By telegram of October 5, 1966, Transco rejected this certificate because of the rate base condition. Transco, the Coal Interests and our staff have filed exceptions to the Examiner's decision; Transco and the North Carolina Utilities Commission have filed briefs opposing exceptions.

Factual Background

Transco's main pipeline extends from the Texas Gulf Coast by way of South Carolina and North Carolina to New York. Transco presently renders service to Public Service at a number of delivery points including Transco's compressor station 145 just north of the North Carolina-South Carolina border. From there Public Service's line extends westerly to Asheville, North Carolina, serving parts of its Western Division and United Cities Gas Company (See attached map).

In the present application Transco proposes to construct 7.65 miles of 36-inch main pipeline loop in Mississippi and 4.15 miles in Alabama. In addition, it plans to construct the Tryon lateral consisting of 28 miles of 16-inch line extending from its station 140 near Moore, South Carolina in a northerly direction to Tryon just across the border in North Carolina. Delivery would be made from this lateral to Piedmont at Inman and Landrum in South Carolina and to Public Service at Tryon. The total cost of Transco's proposed facilities would be $3,730,000, of which $1,790,000 applies to the Tryon lateral.

Among the possible issues in this proceeding there is no question about gas supply, engineering feasibility, financing, or the need for an additional gas allocation to Public Service and Piedmont. Public Service presently receives 85,558 Mcf on a peak day; and it projects 107,000 Mcf for its peak day demand in the winter of 1967–68. Under the proposed allocation Transco would supply the difference, 21,442 Mcfd. Of this amount 12,627 Mcfd will be delivered through the Tryon lateral in 1967–68. On its part Piedmont shows that at Inman and Landrum its requirements will increase in the third year (1968–69) to 1,114.0 Mcfd, which Transco would supply entirely through the Tryon lateral.

There are left in issue two important matters: (1) the size and length of the Tryon lateral and (2) the form of Transco's lateral line formula and whether it should be filed as a part of its tariff. There is also a question of whether a certificate should be issued for Transco's mainline facilities before a final determination is made with respect to the prior expansion.

The Size of the Tryon Lateral

The basic question here is whether we should approve the construction of a lateral line only large enough to meet firm demands for a few years or whether we should permit Transco to build a larger line at a greater cost, but proportionately much greater capacity, that will meet probable needs for more than a decade. Transco proposes that its Tryon lateral be 16 inches in diameter, and is supported by the North Carolina Commission. On the other hand, the Coal Interests contend that such a lateral would be extremely oversized and that it should be 8 inches in diameter. The Examiner notes the contentions of the Coal Interests, admits that the capacity of the lateral is beyond immediate future needs, but grants a certificate for the 16-inch lateral.

The record does not show the capacity or cost of an 8-inch line as proposed by the Coal Interests, but information as to the capacity of similar lines, of which we can take notice, indicates the capacity would be about 18,000 Mcf per day (Mcfd) and would cost approximately one million dollars. A 12-inch line, on which evidence was presented and which is advocated in the dissenting opinion, would have a capacity of approximately 50,000 Mcfd and would cost only about $300,000 less than the proposed 16-inch lateral, which would have a capacity of 93,791 Mcfd and would cost $1,790,000.

In our opinion the 8-inch line would be too small in view of the expected market for the gas. By the third year of operation the market attached to that part of Public Service's Western Division to be served through the Tryon lateral and the Asheville line (Tryon-Asheville area) would represent a total maximum firm demand of 31,080 Mcfd, and by the fifth year it would amount to 34,475 Mcfd. The 8-inch line would supply 18,000 Mcfd less 1,114 Mcfd for Piedmont, and the Asheville line would supply 15,600 Mcfd less a transportation obligation of 1,862 Mcfd for United Cities Gas Company. The total gas available with the 8-inch line would thus be only 30,624 Mcfd, less than the third year estimated firm market.

A 12-inch line in conjunction with the Asheville line after deducting the Piedmont and United Cities loads, would have a capacity of 62,624 Mcfd and would enable Public Service to meet its Tryon-Asheville peak, accepting its market estimates. However, it appears that Public Service has a substantial interruptible industrial market attached in its Tryon-Asheville area.

Public Service's market evidence relating to the future of the industrial load is based in part on interviews with industrial customers, but also makes somewhat conjectural assumptions regarding the attachment of customers now utilizing other fuels. This evidence, however, does not take into account new industries that would undoubtedly locate in the presently served areas nor does it consider the unserved market areas in adjoining counties referred to by the North Carolina Commission. We are here dealing with a long range projection of markets as to which there obviously could be no guarantee, but such a long range forecast represents the best judgement of the distributor serving the area. With these considerations in mind, we shall accept Public Service's evidence as a rough indication of the future Tryon-Asheville load that by the tenth year the average day sales will amount to about 75,000 Mcf, which is more than could be delivered by a 12-inch Tryon lateral plus the Asheville line, but which could be delivered over the proposed 16-inch Tryon lateral.

Transco's Vice-President testified that "We have to do some long-range planning on this system if we are not to end up with a maze of relatively small diameter pipes, with a high investment cost, and a high cost of service." He believed Public Service was a growing customer, and that Transco should put in a 16-inch line instead of a 12-inch line at a cost of only $300,000 more and get approximately 43,000 Mcfd of additional capacity. In our opinion the use of compression to obtain this additional capacity would be more expensive.

The record indicates that while Public Service does not purchase additional contract demand gas for service to interruptible customers, the company does desire to maintain or better its load factor of 85 percent. Under Transco's established tariffs all purchases of gas by Public Service even on a primarily interruptible basis will, over and beyond meeting incremental costs, return significant amounts on Transco's fixed costs to the advantage of its firm customers.

Furthermore, a high load factor under state regulation should also result in lower costs for the firm customers of Public Service. Since Public Service now pays a demand and a commodity charge to Transco, the greater volumes it takes, the lower will be its average unit cost of gas.

Public Service apparently plans to achieve a high load factor by delivering substantial amounts of gas to its interruptible customers during those periods when its system is not demanding peak service. During these valley periods it could take additional gas from Transco at Tryon rather than at other points of delivery and deliver this gas to interruptible customers in the Tryon-Asheville area. To deliver gas to this area at the estimated tenth-year level of 75,000 Mcfd would, of course, require increases in Public Service's contract demand purchases. Transco, the record shows, now has a deliverability life of about 14 years. The additional requirements of this proceeding plus the projected increased requirements of the Western Division in the next decade would not reduce this deliverability life as much as a year even if Transco attached no more gas. If the market became so great that Public Service had to purchase gas in excess of its contract demand as provided in its tariff, the fact that it may have excess capacity will not enable Transco to discriminate in its favor, because the tariff provides for an allocation of such excess gas among Transco's customers requesting such service in proportion to their contract demands.

There is little doubt that the 16-inch lateral as planned will produce an adequate return on the proposed investment. The record shows that on the basis of the third year of operation, the Tryon portion of Transco's expansion project would on an incremental basis produce a return of 16.68 percent. The fact, however, that the 16-inch lateral will earn an adequate return is not a sufficient justification by itself for building a line of this size. Here it is our opinion that the 16-inch line, as opposed to the 12-inch line, offers the opportunity for large additional growth and additional net revenues more than sufficient to cover the comparatively little additional cost. The record does indicate a favorable outlook for future markets, particularly the interruptible market, and a 16-inch lateral would enable Public Service to serve more fully and encourage the development of its markets. This should contribute to a higher load factor and a lower unit cost of purchased gas to the benefit of its firm customers.

This conclusion does not mean that once it is determined that a proposed lateral will earn an adequate return we shall automatically accept the judgment of management that the lateral should be built. In future proceedings we shall expect that the record will be developed to show as clearly as possible whether a proposed lateral is or is not unnecessarily large in the light of the expected development of the market. Here, in view of the comparatively small increase in investment necessary to build a 16-inch line as opposed to a 12-inch line, the expected development of the market and the other factors listed above, we shall approve the 16-inch line as proposed, thus affirming the Examiner on this question. The arguments made by the Coal Interests do not alter this conclusion.

The Coal Interests argue that extrapolation of industrial requirements into the tenth year and beyond is particularly tenuous because of the highly competitive prices of other energy. Pointing to Public Service's estimates they contend that Public Service is being unduly optimistic in estimating it will attach customers, particularly the large Champion Paper Company at Canton, North Carolina. They also argue that no contracts have been submitted for Champion Paper or any other customers although the Commission in numerous cases has required the submission of contracts.

It is clear that Public Service's estimates for the distant future could not be relied upon to show whether it would earn an adequate return, but since the line will do so even with no increases above the sales proposed to Public Service and Piedmont, the Commission would be justified in granting Transco's request to build a line large enough to take care of increases in load in the next decade or more in the Tryon-Asheville area and possibly in adjacent counties. While some of this territory may not be economically attractive at the present time it is reasonable to build a somewhat larger line at a minimal increase in cost to provide for the contingent future needs that are indicated by this record. In fact, to limit the size of the line here because of its potential use in channeling off-peak or valley gas to Public Service's Tryon-Asheville area to the benefit of the firm customers of both Transco and Public Service would represent protection of the Coal Interests from competition at the expense of gas consumers. As said in *National Coal Association* v. *F.P.C.*, 191 F. 2d 462 (CADC), even if the Gas Act be construed to confer a right upon competing fuel to participate in Commission proceedings, "it does not follow that the interests of such groups in retention of markets may bar issuance of a certificate found to satisfy the explicit criteria furnished by §7(e) of the Act." *Cf. Mid-America Pipeline Co.* v. *F.P.C.*, 330 F. 2d 226 (CADC–1964).

Since the 16-inch line will earn an adequate return, the cases that require the filing of contracts in order to show the economic feasibility of a branch line are not applicable. Furthermore, in *Northern Natural Gas Co.*, 30 FPC 859, 864, the Commission said there is no reason in every case to require certificate applicants to obtain firm commitments from their anticipated customers: "firm commitments will be required only where the contemplated sales appear to have a strong bearing on the economic feasibility of the project." There the Commission required contracts to be filed where the industrial sales involved account for more than 15 percent of the branchline revenues. It would appear that here the largest of the prospective customers, the Champion Paper Company, would represent less than 15 percent of the annual volumes of gas estimated to be sold in the Tryon-Asheville area, except for the first year, and presumably less than 15 percent of the revenues.

The Length of the Tryon Lateral

Transco and Public Service have agreed that Transco build as far as Tryon and that Public Service should build from there to Mill Springs and beyond. The North Carolina Commission, however, points out that under Transco's lateral line formula the $1,790,000 proposed cost of the Tryon lateral is $475,000 short of the maximum expenditure under the formula, argues that this additional amount would permit Transco to construct 7.3 miles of lateral line beyond Tryon, asks that Transco make this additional investment, and requests that Transco be required to build the entire distance to Mill Springs or the connection with Public Service's Asheville line. The Examiner finds that Transco should extend the lateral beyond Tryon, for he finds that Tryon is not a natural terminus. Transco excepts, pointing out that Public Service did not request that it build beyond Tryon.

In this proceeding Transco has set forth its policy in considering pipeline facilities for new services. Its statement consists of a formula for computing its investment in any pipeline extension and certain reservations regarding its discretion in making a pipeline extension. The relationship of these reservations to the investment formula will be discussed below. The formula itself is directly applicable to the Tryon extension.

Under Transco's formula its investment in any pipeline extension would be based on third-year revenues less (1) cost of gas, and (2) a system contribution which is the result of multiplying the Mcf of contract demand utilized in computing the third-year revenues by $33. The net amount would be divided by 15 percent to obtain Transco's investment. Transco asserts that its policy statement is fair and reasonable and should be approved by the Commission.

There is no dispute that Transco's formula when applied to the estimated third-year (1969) revenues from the Tryon lateral provides that Transco's investment should be $2,265,000 or $475,000 more than the proposed expenditure of $1,790,000. Testifying generally as to the operation of the formula Transco's Executive Vice-President says that the company will build within the limits of the formula, although it would minimize cost to it if agreeable to the customer. In this case he admitted the market the company was seeking was to feed into Public Service's Asheville line.

In our opinion non-discriminatory treatment of all Transco's customers requires that Transco extend its line beyond Tryon in accordance with its lateral line formula. To so require would be consistent with our practice of ordering a pipeline to extend its facilities pursuant to its lateral line formula in order to make deliveries of gas to applicants for service. *American Louisiana Pipe Line Co., et al.*, 27 FPC 967, 969, 981, 983; *City of Wetmore, Kansas*, 33 FPC 851, 855; *Wisconsin Gas Co.*, 36 FPC 348, Docket No. CP66–389, August 1, 1966. We do not interpret Transco's formula to mean that it must build distribution type facilities, such as facilities beyond the "city gate".

We do not think it persuasive that Public Service did not request the extension of the Tryon lateral to the limits of the formula. Agreement was reached before the formula was established and Transco's policy known. Furthermore, it is not persuasive that the additional mileage of line could be used for line pack, that is gas storage. There is nothing to show that an equal amount of storage could not be produced for less than the $475,000 that Public Service would otherwise have to invest in the lateral. We agree with the North Carolina Commission that this amount could well be invested in other parts of the Public Service system. In arriving at this result, however, we do not mean to imply that in all cases we will insist on literal application of a lateral line formula even though the distributor company would obtain benefits greater than its expenditures by building part of the lateral for itself, but this has not been shown here. Therefore, we shall require as a condition of the certificate issued to Transco that it extend its line beyond Tryon as far as permitted by its lateral line formula with the option to build the additional distance to an interconnection with Public Service's Asheville line.

Filing the Lateral Line Formula

The issue as posed by the proceedings has been whether Transco in stating its lateral line policy has properly included a reservation, which gives it complete discretion on whether to build a given lateral line. The question also has arisen as to whether it must file a statement of its lateral line policy as a part of its tariff. This whole matter must now be determined in the light of our recently issued Order No. 328 amending our regulation.[1]

In its statement of lateral line policy Transco, in addition to the mathematical formula outlined above, adds that, while the formula sets forth a simplified uniform test, it must be recognized that "there are many factors which must be considered in making a judgment determination whether to make a significant extension of the pipeline system." These, it says, include markets to be obtained, growth prospects, competition, exposure to state taxes and the possibility of being classified as a local public utility.

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[1] Statement of Lateral Line Policy in Rate Schedules Filed by Natural Gas Pipeline Companies, 36 FPC 774, Order No. 328, Docket No. R–301, issued October 19, 1966.

Transco's witness explains that the Company does not want to be in the position of having to file an application under Section 7(c) that it does not agree with, that it reserves the right to make the test of public convenience and necessity, and that, if the customer disagrees, he can file under Section 7(a). It argues, "it is impossible for either Transco or the Commission at this time of inception of Transco's lateral line policy to envision the variety of factual situations which might be presented by a customer" falling within the formula yet not in accord with the Commission's criteria. It says that it should have the initial privilege of flagging such projects by refusing to file subject to review by the Commission either under Section 7(a) or by petition to show cause or some other means.

The staff does not differ with Transco's mathematical formula but contests Transco's reservations. It contends that the acceptance or rejection of a request by a customer to construct a lateral cannot be left to the private determination of the company, asks that the qualifying statements be deleted, and that the mathematical part of the policy statement be filed in Transco's tariff. In reply to the staff's contentions, Transco redrafted the qualifying language (see Examiner's decision, p. 1078), but the redrafted language likewise retains discretion stating that Transco will not be compelled to file an application to construct a lateral under Section 7(c) that it deems impractical, infeasible, unnecessary or not in the public interest, subject, however, to review by the Commission.

The Examiner finds that Transco's announced policy "lacks the degree of certainty and predictability which its customers have a right to reasonably expect" (p. 1077), and he rejects the reservations in the policy statement and the substitute language. Because the record is devoid of evidence of the effect of the application of the formula on other parts of Transco's system, he would not require that Transco incorporate its formula in its tariff.

Order No. 328 is not intended to require that a pipeline state the considerations which might lead it voluntarily to provide new or increased service to a customer. It is rather designed to require a clear and accessible declaration of the criteria by which a pipeline company determines to what extent, if at all, it will participate financially in lateral line construction so as to assure the company's customers of equitable treatment. The pipeline would be required solely to set forth the basis for the financial obligations it would assume in the event it were authorized or directed to provide such service after proceedings brought under Section 7(a) or 7(c) of the Act. In other words, we do not intend by formula to take away a pipeline's discretion whether or not to build a lateral, but if it builds a lateral voluntarily or is required to do so by Commission order, it must build or furnish funds for the building of the lateral in order to treat its customers equitably, and the basis for the amount of its construction or furnishing of funds must be set forth plainly in its tariff. This is entirely consistent with the Commission's opinion in *Michigan Wisconsin Pipe Line Co.*, 34 FPC 621, Opinion No. 471, August 30, 1965, requiring the filing of the company's lateral line formula.

In the present proceeding it follows that the mathematical formula part of Transco's lateral line policy statement showing the amount of its contributions to a lateral line should be filed as part of its tariff in accordance with Order No. 328. The remaining or discretionary part of Transco's lateral line policy statement is not properly part of the lateral line formula and should not be included in its tariff filing as a limitation thereon. To the extent that

Transco may wish to state separately in its tariff the policies underlying its determinations as to whether or not it would voluntarily provide new or increased service to its customers it may do so, but such statement should be kept separate from the statement of its lateral line formula. This separate statement would, of course, not be controlling in any proceeding brought before the Commission on whether or not Transco will build a particular lateral.

Mainline Facilities

In order to obtain sufficient capacity to serve the Tryon lateral, Transco proposes to build two loops on its main line. The staff points out that this proposed mainline expansion is one of a series proposed in Docket Nos. CP64-270, CP65-181, CP66-150, and CP66-233. It suggests that the expansion in this proceeding, CP66-150, not be given a permanent certificate pending final decision in CP65-181. On May 26, 1966, the Commission granted a temporary certificate for certain mainline facilities specifically including those involved in the present docket, CP66-150, designed to serve the Tryon lateral.

The Examiner here discusses the difficulty of relating mainline facilities to the service proposed, but concludes that the mainline facilities should be permanently certificated in CP66-150. However, in the event that the proposals in CP64-270[2] and CP65-181 are not granted in full, he provides that Transco should submit revised flow and cost data.

We agree with the disposition made by the Examiner. We shall grant a permanent certificate for the mainline facilities here proposed, but shall provide that within 30 days after the final decision in Docket No. CP65-181, Transco shall submit revised flow and cost data. This should reflect the reductions in Transco's proposed market in Docket No. CP64-270 and any reduction that may be made in its requirements in CP65-181. On the basis of this data Transco's request to build mainline facilities in Docket No. CP66-233 can be appropriately adjusted.

The Commission finds:

(1) The Transcontinental Gas Pipe Line Corporation is engaged in the transportation of natural gas in interstate commerce and in the sale in interstate commerce of natural gas for resale for ultimate public consumption and is therefore a "natural-gas company" within the meaning of the Natural Gas Act.

(2) The facilities which Transco proposes to construct and operate, described in its application in Docket No. CP66-150, and those which it will be required to construct and operate, will be used in the transportation and sale of natural gas in interstate commerce for resale, subject to the jurisdiction of the Commission, and the construction and operation of such facilities are subject to the requirements of subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Transco is able and willing properly to do all the acts, to make the sales and to perform the services proposed by it in Docket No. CP66-150, and to conform to the provisions of the Natural Gas Act, and the requirements, rules, and regulations of the Commission thereunder.

(4) The construction and operation of the mainline facilities, the lateral line to Tryon, North Carolina, including its extension required below, and the new sales of natural gas proposed by Transco, namely, 21,442 Mcf per day of firm gas to the Public Service Company of North Carolina and 1,114 Mcf per day to the Piedmont Natural Gas Company, are required by public con-

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[2] The Commission did in fact reduce the proposed market in this docket, *Transcontinental Gas Pipe Line Corp.*, 35 FPC 917, Opinion No. 493, Docket No. CP64-270, issued June 8, 1966.

venience and necessity, and certificates therefor should be issued as hereinafter ordered and conditioned.

(5) In order to carry out the terms of its lateral line formula, Transco should be required to extend its proposed lateral line beyond Tryon, North Carolina, or to a connection with Public Service's Asheville line at Mill Springs, North Carolina, as required below.

(6) Transco's lateral line statement within the meaning of Order No. 328 is as follows:

Transco's investment in any pipeline extension, excluding measuring station facilities, shall be based upon estimated third-year revenues generated by sales from such extension for that year under Transco's CD, G and OG Rate Schedules, which estimate shall be acceptable to Transco. There will be deducted from the estimated third-year revenues (1) an amount representing the cost of gas included therein, which amount will be computed by multiplying the sales volumes for the third-year by the average cost per Mcf of gas purchased by Transco as reported in its latest FPC Form 2 filed with the Federal Power Commission, and (2) a system contribution which will be the result of multiplying the Mcf of Contract Demand, or Maximum Daily Quantity, utilized in computing the third-year revenues by $33. The net amount thus determined will be divided by 15% to obtain Transco's investment in any pipeline extension.

"Pipeline extension," for purposes of this statement, shall include any extension from Transcontinental's existing system involving pipe of not less than 4 inches diameter and not more than 20 inches O. D. For pipeline extensions larger than 20 inches, for supply of gas to more than one customer at main line pressures, management reserves the right to construct such extension as part of its mainline facilities where the facts and circumstances show such to be in the public interest.

Such statement should be filed by Transco as part of its tariff.

(7) The public convenience and necessity require that the general terms and conditions set forth in paragraphs (a), (b), (c)(3), (c)(4) and (e) of Section 157.20 of the Commission's Regulations under the Act shall attach to the certificates issued to Transco and to the exercise of the rights granted thereunder, and that the time within which the facilities authorized by this order shall be constructed and placed in actual operation shall be fixed at one year from the effective date of the final order herein.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to the Transcontinental Gas Pipe Line Corporation, authorizing Transco to construct and operate the facilities proposed herein, and to transport and sell an additional 22,556 Mcf per day of natural gas in interstate commerce, as more fully described in its application, upon the terms and conditions of this order.

(B) Transco shall construct and operate an extension of its proposed 16-inch Tryon lateral beyond Tryon in the direction of Mill Springs, N.C., to the extent required by its lateral line formula and may, if it chooses, further extend the line to an interconnection with the Asheville line of Public Service near Mill Springs.

(C) Within thirty days from final Commission decision in Docket No. CP65-181 therein, Transco shall (a) submit revised flow diagrams setting forth the facilities necessary to render the proposed service to Public Service and Piedmont; (b) the cost associated with such facilities; and (c) a showing of the incremental rate of return on such facilities.

(D) Within the time limit specified in Order No. 328, Transco shall file the lateral line extension formula set forth in (6) above as part of its tariff.

(E) Within thirty days the certificate issued in paragraph (A) above shall be accepted in writing by a responsible official of Transco, and the general terms and conditions set forth in (a), (b), (c)(3), and (c)(4) and (e) of Section 157.20 of the Commission's Regulations under the Natural Gas Act shall attach to the issuance of such certificate, and to the exercise of the rights granted thereunder.

(F) Construction of the proposed lateral line shall be completed within one year of the issuance of this order.

(G) The decision of the Presiding Examiner to the extent not inconsistent herewith is adopted as the decision of the Commission.

(H) Exceptions not granted herein are denied.

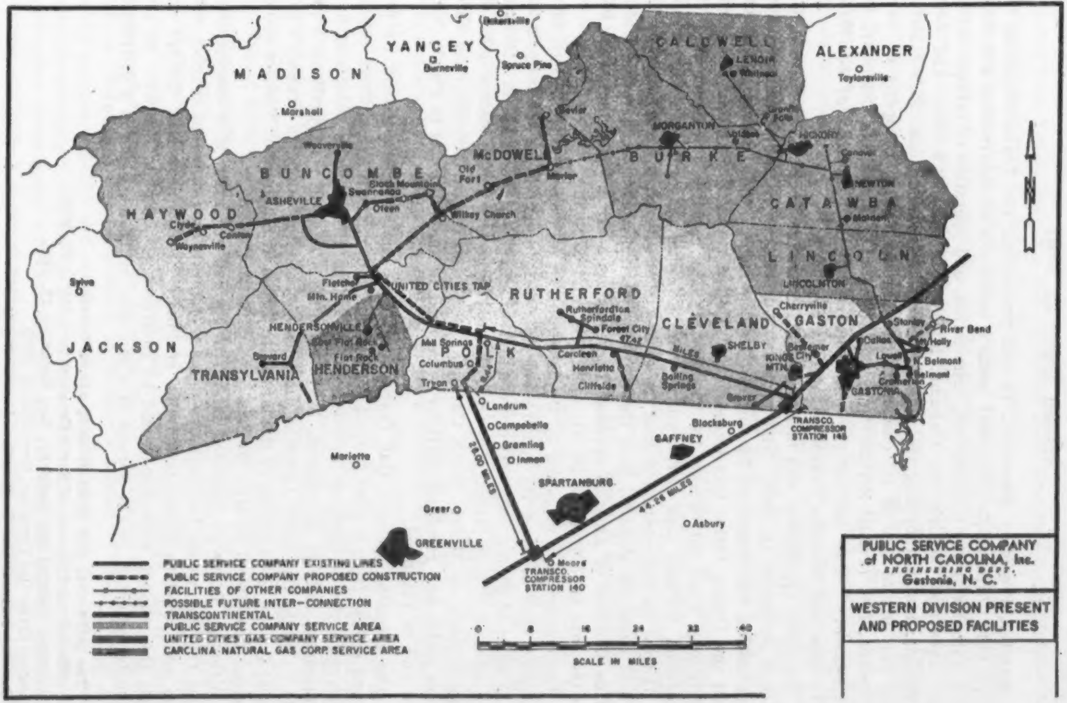
Commissioner Ross *concurring in part* and *dissenting in part.*

Ross, *Commissioner, concurring in part* and *dissenting in part:*

I am not convinced that the public convenience and necessity requires Transco to construct the Tryon lateral 16 inches in diameter. In my opinion, a 12-inch lateral would be more than ample.

The majority contends that the amount of money involved is so slight that we can ignore the fact Transco is being authorized to construct capacity that by the end of 10 years will be 260 percent greater than the needs of their firm customers. Despite the majority's denial, it would seem to be implicit in this decision that management has the unquestioned right to speculate with the consumers' dollars not for a typical 3 or 5 year forecast, but for ten years or more. Why would not the same reasoning hold for mainline extensions as well?

I do not mean to suggest that pipeline capacity should be squeezed down to bare bones present needs. To the contrary, pipelines should be given substantial flexibility in building increments of capacity in the most economic manner possible, considering both present and reasonably anticipated requirements. However, there is a limit. And this case, in my opinion, constitutes a clear case of the Commission going too far. The interruptible needs upon which the larger diameter pipe is based are extremely questionable. Besides being dangerous from a precedential basis, the results of the decision places a competing energy source under a severe handicap. Moreover, to the extent the market does not develop, the consumers will be required to pay the carrying charges throughout this period on the additional investment.


PUBLIC SERVICE COMPANY
of NORTH CAROLINA, Inc.
ENGINEERING DEPT.
Gastonia, N. C.
WESTERN DIVISION PRESENT AND PROPOSED FACILITIES
N
MADISON
YANCEY
Burnsville
Bakersville
Spruce Pine
CALDWELL
LENOIR
Whitnel
ALEXANDER
Taylorsville
Marshall
Weaverville
BUNCOMBE
ASHEVILLE
Swannanoa
Black Mountain
Oteen
HAYWOOD
Clyde
Canton
Waynesville
McDOWELL
Old Fort
Marion
Sevier
Wilkey Church
MORGANTON
BURKE
Valdese
Granite Falls
HICKORY
Conover
NEWTON
CATAWBA
Maiden
LINCOLN
LINCOLNTON
Sylva
JACKSON
Fletcher
Mtn. Home
UNITED CITIES TAP
HENDERSONVILLE
East Flat Rock
Flat Rock
HENDERSON
Brevard
TRANSYLVANIA
RUTHERFORD
Rutherfordton
Spindale
Forest City
Mill Springs
POLK
Columbus
Tryon
Caroleen
Henrietta
Cliffside
CLEVELAND
SHELBY
Boiling Springs
Grover
Cherryville
GASTON
Bessemer City
KINGS MTN.
Stanley
River Bend
Dallas
Mt. Holly
Lowell
N. Belmont
Belmont
Cramerton
GASTONIA
TRANSCO COMPRESSOR STATION 145
Blacksburg
GAFFNEY
Landrum
Campobello
Gramling
Inman
Marietta
Greer
GREENVILLE
SPARTANBURG
Asbury
Moore
TRANSCO COMPRESSOR STATION 140
28.00 MILES
44.26 MILES
MILES
PUBLIC SERVICE COMPANY EXISTING LINES
PUBLIC SERVICE COMPANY PROPOSED CONSTRUCTION
FACILITIES OF OTHER COMPANIES
POSSIBLE FUTURE INTER-CONNECTION
TRANSCONTINENTAL
PUBLIC SERVICE COMPANY SERVICE AREA
UNITED CITIES GAS COMPANY SERVICE AREA
CAROLINA NATURAL GAS CORP. SERVICE AREA
0
8
16
24
32
40
SCALE IN MILES

INITIAL DECISION

OF THE PRESIDING EXAMINER UPON APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY UNDER THE NATURAL GAS ACT

(Issued August 22, 1966)

SHRIVER, *Presiding Examiner:* In this proceeding, the Transcontinental Gas Pipe Line Corporation (Transco) seeks a certificate of convenience and necessity authorizing the construction, installation, and operation of certain natural gas lines and facilities in Alabama, Mississippi, North Carolina, and South Carolina, and authorizing the sale for resale of an additional 22,556 Mcf of gas per day to two of its customers, the Public Service Company of North Carolina, Inc. (Public Service) and the Piedmont Natural Gas Company, Inc. (Piedmont). The cost of the new construction is estimated at $3,370,000. The case also involves Transco's lateral line policy.

Transco's application was filed pursuant to Section 7(c) of the Natural Gas Act on November 12, 1965. Nine persons filed petitions to intervene.[1] Transco's application was supported by three of its customers, Public Service, Piedmont, and the United Cities Gas Corporation (United Cities). Exhibits and direct testimony were introduced by Transco, Public Service, Piedmont, and the Carolina Natural Gas Corporation. The Carolina Natural Gas Corporation withdrew its intervention during the course of the hearing, April 6, 1966. The Fuels Research Council, Inc., the National Coal Association, and the United Mine Workers of America opposed Transco's application. Hearings were held in the case on March 28, 30, 31, April 1, 4, and 6, 1966.

The construction proposed by Transco consists of 7.65 miles of 36-inch main pipeline loop between its compressor stations 65 and 70 in Mississippi, and 4.15 miles of 36-inch loop between compressor stations 100 and 110 in Alabama; 28 miles of 16-inch lateral line from the discharge side of its station 140 near Spartanburg or Moore, South Carolina, to Tryon, North Carolina, and three sales meter and regulator stations to be used in supplying gas to Public Service and to Piedmont.

The Carolina Natural Gas Corporation asks that Transco extend its proposed lateral from a point beyond the Tryon terminus to make a direct connection with the facilities of Public Service, *i.e.*, to Mill Springs point and at a subsequent date to Morganton, North Carolina (Tr. 8–9); (Appendices I and II).[2] While the North Carolina Utilities Commission supports Transco's proposal for the construction of the lateral to Tryon, it claims that Transco should extend the lateral to Mill Springs.

Although Transco's proposed lateral would end at Tryon, it is contemplated that the line would be continued some 8.71 miles northward to connect with the main western transmission line of Public Service near Mill Springs and that this 16-inch extension would be constructed by Public Service. As previously indicated, Public Service is a customer of Transco, and is a distributor in some 20 counties in the north central and southwestern part of North Carolina. Transco asks for an allocation of 21,442 Mcf per day of firm gas for Public Service and 1114 Mcf per day for Piedmont to enable Piedmont to supply gas to the villages of Inmann and Landrum in South Carolina. Piedmont is served from Public Service's line extending from Transco's main pipeline at station 145 westward to Asheville, North Carolina.

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[1] The petitioners and dates of filing are as follows:

Public Service Company of North Carolina, Inc., March 28, 1966.
Piedmont Natural Gas Company, Inc., December 13, 1965.
United Cities Gas Company, December 13, 1965.
Carolina Natural Gas Corporation, December 10, 1965.
North Carolina Natural Gas Corporation, December 13, 1965.
Fuels Research Council, Inc., December 13, 1965.
National Coal Association, December 13, 1965.
United Mine Workers of America, December 13, 1965.
North Carolina Utilities Commission, December 9, 1965.

[2] Appendices I (*infra*) and II (*supra*, p. 1069) are reproduced from Exhibit 11, pp. SM–1 and SM–2.

It is apparent at the outset that Transco's application is designed primarily to increase its mainline capacity, and to provide additional gas to the western division of Public Service for the new markets and the increased gas requirements in Asheville and extended surrounding communities. At the present time, Transco delivers gas to the western division of Public Service at station 145 some ten miles south of Gastonia, North Carolina. It is claimed that the transmission line of Public Service leading from station 145 westerly is now utilized to capacity. Transco's application is predicated on the claim that the expanding western division market of Public Service requires additional gas, and that Public Service's transmission line must either be looped or that this market be served by a line from a new takeoff point on Transco's mainline, hence the Tryon lateral.

By way of justification for the location of the lateral, it is urged that it will serve new territory in South Carolina, mainly Inmann and Landrum through Piedmont, and that a line from Spartanburg to Tryon is considerably shorter and thus cheaper to construct, than a loop of the western transmission line of Public Service from Transco's station 145. When it is considered that the haul is reduced, this claim is plausible.

As to the lateral, Transco's proposal to construct the Tryon lateral is a definite departure from its past practice. Transco's major laterals are located farther from its sources of gas supply and in industrial areas at or north of Philadelphia, Pennsylvania. Many are short lines to industrial consumers. Transco says, however, that construction of the Tryon lateral is in accord with its filed statement of lateral line policy pursuant to which it will install a lateral line to secure a new market under a mathematical formula establishing the amount of investment justified by the new market.

In support of its application for the granting of the certificate, Transco says it meets all the tests which are normally required, such as gas reserves, market, economic feasibility, adequacy and reasonableness of facilities, and finances. Transco says that the investment in the proposed facilities of $3,730,000 represents .526 percent (less one percent) of its total net investment as of August 31, 1965 of $708,017,567; that the third-year annual volumes of gas deliveries attributable to the new service of 6,977,500 Mcf represent 1.09 percent of Transco's total annual requirements and that the gas needed for the instant project would reduce the life index supply of 18.5 to approximately 18.3 years. None of the intervenors nor the Staff make an issue of gas supply. As to market, the proposed sales represent an increase in the purchases by Public Service and by Piedmont and an expansion of Transco's market. Public Service presently purchases 85,558 Mcf per day of firm contract demand gas under Transco's rate schedule CD–2 for its total system requirements. Public Service has a two-year commitment for 9,442 Mcf per day for 1966–67, and an additional amount of 12,000 Mcf per day for 1967–68, or a total increase of 21,442 Mcf per day. Piedmont's third-year contract demand requirements for delivery through the Tryon lateral in 1968 are 1114 Mcf per day. (Exh. 11, p. MD–1; Exh. 9.)

The adequacy of Transco's mainline facilities was not questioned. Mr. Schorre testified that the proposed 16-inch Tryon extension would have a maximum winter day capacity of 93,791 Mcf per day. The capacity of the Tryon lateral necessarily far exceeds the third-year requirements of Transco's customers. The cost of the pipeline loop facilities was estimated at $1,696,488, the 28-mile lateral at $1,649,943, the sales meter and regulator stations at $93,096, the general overhead interest, contingencies, and other costs at $291,473, for a total of $3,730,000. These cost figures represent Transco's best estimate based on its recent experience in pipeline installation. No valid objection was raised at the hearing concerning the adequacy of the facilities to render the proposed service, nor was the cost of the facilities seriously challenged.

The Coal Interests, Fuels Research Council, Inc., National Coal Association, and the United Mine Workers of America, object that the Tryon lateral is too large, that its capacity exceeds the third-year gas requirements of Public Service and Piedmont, and contend that Transco's request for a 16-inch line be denied. But it must not be forgotten that it is Transco which seeks a certificate not its customers. Although it may be admitted that the capacity of the lateral is beyond immediate future needs, we cannot say after considering the potential load growth of the area to be served, Transco's customers and all the relevant circumstances, that Transco is unwise in proposing to construct a 16-inch line.[3]

Transco claims that a calculation of the estimated cost of services and the expenses shows in third year, on an incremental basis, a rate of return on the proposal of 17.73 percent or 11.23 percent above 6.50 percent, and that the proposal is therefore economically feasible.[4] In considering the economic feasibility of the service incident to the Tryon lateral and the portion of the mainline facilities related thereto, Transco claims that this is governed by its lateral line formula rather than the conventional test.[5] Notwithstanding, Transco claims that the Tryon portion of the total service is economically feasible by conventional tests as well as by its lateral line formula.[6]

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[3] In support of its policy and line size Transco's vice president, Mr. Henderson, testified on cross-examination in part as follows:

Q. Why do you feel as a policy witness that in view of the amounts which Public Service Company of North Carolina will be taking in 1966 or '67 through the Tryon lateral, why do you think that you should support a line which has some odd 93,000 Mcf capability?

A. Well, for the following reasons: We have to do some long-range planning on this system if we are not to end up with a maze of relatively small diameter pipes, with a high investment cost, and a high cost of service. We have to do some long-range planning to try and keep our costs down. I repeat, we are in a highly competitive market.

Now we know that Public Service Company of North Carolina has been a growth company on our system. It has been a good customer, a growing customer. Now Mr. Schorre testified that we could do this job for the first several years with 12-inch pipe instead of 16-inch pipe, and the 12-inch pipe would give us approximately 50,000 a day capacity. We can put in 16-inch pipe instead of 12-inch pipe at a cost of approximately $300,000 more and get approximately 43 million cubic feet a day of capacity more.

Well, it doesn't make sense to us to try and save this $300,000 today at the cost of spending a great deal more money later on to lay another line into this market, at the same location, and have a higher cost of service.

For the same reason, Mr. Lichtenstein, long-range planning, that we went to 36-inch pipe on our main system, and we are now going to 42-inch pipe because the cost does not increase in the same ratio that the capacity increases. It is for this reason that the cost of transporting gas on our system today is not very much different than it was when we went into operation in 1951.

[4] Exh. 8, p. 20.

[5] See Appendix III, reproduced from pages 1 to 3 of Exhibit 10 containing a statement of Transco's lateral line policy.

[6] Exh. 8, p. 21.

The rate of return shown in Transco's application (Application, Exh. N, p. 21) relates to a rate base which is made up of the cost of the Tryon extension plus an allocated portion of the mainline loops—allocated on the basis of a capacity of 13,741 Mcf to Public Service as compared to the overall capacity of the loops of some 53,000 Mcf. Transco's witness Henderson testified that the incremental rate of return of 16.68 percent related to a rate base of $2,163,243. (Tr. 383–384)

Transco indicates that the facilities may be financed by cash generated from operations, or by means of short-term bank loans. Its witness Andrews testified that the Company has a revolving credit agreement providing for bank loans up to an aggregate amount of $80,000,000. Transco's ability to finance the project was not contested at the hearing. Accordingly, we conclude, based on the evidence of record, that to the extent approved hereafter, Transco's proposal meets the conventional tests which are required in certificate applications.

Main-Line Facilities

In its application for a certificate of public convenience and necessity, Transco estimates the cost of installing the main-line loops in this case at $1,696,488 —one loop between stations 65 and 70, and one between stations 100 and 110. (Application, Exh. N, p. 24) These loops were also proposed in CP65–181 before the instant application for the construction of the Tryon lateral was removed from the earlier docket. Mr. Schorre testified for Transco that the purpose of showing the loops in this docket "is to give us sufficient main-line capacity to take care of the additional allocation sought in this docket." (Tr. 110) Mr. Henderson testified that the loops are necessary before Transco can render the service through the Tryon lateral because it does not have sufficient existing capacity, but he indicated that he could not "identify the balance of the capacity of those two loops with particular markets."[7] In responding to a question by Staff counsel as to whether it is Transco's policy to request authorization for main-line loop facilities that go beyond association with a pending docket, he replied that, "If it is going to save us money, it is. Of course, you can't design facilities on a system such as ours for the exact capacity." (Tr. 430)

The Staff says that the facilities proposed in Docket No. CP65–181 constituted an expansion step beyond that proposed in Docket No. CP64–270, and that the facilities proposed in the instant case constitute a still further extension beyond the two previous dockets. The Staff contends that it is impossible to determine what facilities associated with these dockets would be required for service in the instant case.[8] The Staff recommends that any authorization to render service through the Tryon lateral (including, of course, authorization to construct the lateral) be conditioned to provide that the certificate shall not be construed as authorization to construct any of the main-line facilities associated with the instant docket for the reason that the main-line facilities proposed in the instant case constitute an expansion beyond that proposed in Docket Nos. CP64–270 and CP65–181. Staff says that Transco should be required to submit revised flow diagrams setting forth the main-line facilities necessary to render the Tryon service in the event that any of its facilities for which authorization is requested in Docket Nos. CP65–181 and CP64–270 are not authorized. We agree with the Staff's recommendation.

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[7] The loops have a capacity of approximately 50,000 Mcf. (Tr. 429).

[8] Transco's witness Schorre testified that "I am saying when all of these cases are finally settled, when in 270 we have final order and we have a final in 181, then we can make the final determination of what our facility requirements are and then we will modify or amend our applications to that extent necessary to meet the situation as it then exists." (Tr. 204. pp. 13–19).

It may be noted that there is an overlap of the main-line facilities requested by Transco in this docket with those in other dockets. Transco's application in Docket No. CP64–270 was filed on May 8, 1964, supplemented on June 29, 1964, and amended on September 18, 1964. In the application, as supplemented, Transco requested authorization to construct and operate 103 miles of 30- and 36-inch pipeline loops in Louisiana, Mississippi, and Alabama, estimated to cost $20,100,000 for the purpose of increasing its main-line capacity by 81,935 Mcf per day and a new 60-mile, 20-inch pipeline extending about halfway from its main-line near Monroe, Georgia to Chattanooga, Tennessee. In its amended application Transco sought authorization to construct and operate 57 miles of 30- and 36-inch pipeline loops in Louisiana, Mississippi, and Alabama to increase main-line capacity by 47,045 Mcf per day, and a new 126-mile, 20- and 16-inch pipeline to Chattanooga to serve market requirements of 81,936 Mcf per day.[9]

In its application for a certificate in Docket No. CP65–181, as amended, filed April 26, 1965, Transco asked for authorization to construct certain facilities estimated to cost some $87,222,108 to provide additional pipeline firm service of 203,810 Mcf per day. Including the instant case (Docket No. CP66–150), Transco has on file a fourth requested expansion contained in Docket No. CP66–233. Out of the facilities requested in Docket No. CP64–270, the Commission issued a temporary certificate authorizing incremental deliveries of 15,000 Mcf per day. (Tr. 105, 219) Of the total pipeline service proposed in Docket No. CP65–181, the Commission authorized 119,110 Mcf per day under a temporary certificate. In his Initial Decision, in Docket No. CP64–270, Examiner Williams denied Transco's application for additional facilities contained therein except as to the increment of 15,000 Mcf per day being supplied to Atlanta Gas pursuant to the temporary certificate granted by the Commission on December 1, 1964. The Commission, however, in this case (Docket No. CP64–270), *Transcontinental Gas Pipe Line Corporation*, Opinion No. 493, June 8, 1966, 35 FPC 917, ordered, "That Transco's request for authorization to provide service to Chattanooga is denied; in all other respects decision on the application filed in Docket No. CP64–270 is deferred."

As to Docket No. CP65–181, *Columbia Gulf Transmission Company, et al.*, a consolidated proceeding, Examiner Hall stated in his decision dated June 13, 1966, 37 FPC 137, at p .146:

> Each of these expansion applications is built on top of the prior application and, while some of the facilities proposed in Docket No. CP64–270 will apparently not be required in that docket should the Commission deny certain markets to Transco therein, such facilities may be required to render the services in Docket No. CP65–181. Similarly, the result of a denial of certain services in Docket No. CP64–270 may eliminate the need for certain of the facilities proposed in Docket No. CP65–181 to serve the markets herein, but such facilities would apparently be required as a first step in Docket No. CP66–233.
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> Because of the past necessity for pyramiding of applications; the fact that the consolidated proceeding of which Docket No. CP64–270 is a part, is now awaiting Commission decision on exceptions*; and the fact that Transco's latest application in Docket No. CP66–233 is now pending, the
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> *But see, Opinion No. 493, June 8, 1966, referred to above. Note added.

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[9] See, Initial Decision of Examiner Williams' in *Transcontinental Gas Pipe Line Corporation*, Docket No. CP64–270, *et al.*, December 21, 1965, 35 FPC 930 at 931.

> Examiner adopts Transco's suggestion that authorization to Transco in this case be granted subject to the condition that Transco be required to amend its latest expansion application (Docket No. CP66–233) in order to eliminate therefrom any facilities which might require elimination should the Commission deny any of the markets in Docket No. CP64–270. In this way, Transco will be able to obtain a permanent certificate for all of the facilities proposed in Docket No. CP65–181, to the extent authorized by this decision, and will be able to avoid the amendment of three applications. This appears to be the most feasible course of action available to the Examiner.

In the Initial Decision by the Examiner in Docket No. CP65–181, it was ordered, among other things, subject to review by the Commission, that a certificate of public convenience and necessity be issued to Transco authorizing the construction and operation of all facilities which have been constructed and operated, or are in the process of construction and operation pursuant to temporary certificates theretofore issued by the Commission; and further that 20 days after the Commission issues its decision disposing of Transco's Docket No. CP64–270, Transco shall file an amendment to its latest certificate filed in Docket No. CP65–233 to eliminate therefrom all facilities requiring elimination as a result of Commission denial of service to markets proposed in Docket No. CP64–270.

Unless the facilities constructed are related to the service contemplated in an application, it is impossible to determine the economic feasibility of a particular request. Transco's request for authorization to construct the two loops in the instant docket should be considered as incident to the service requested for the Tryon lateral in accordance with its application—certainly to the extent such facilities may be included in any of Transco's other pending dockets which may not be permanently certificated.

In view of the foregoing we conclude that Transco's request for authorization for the construction and operation of the mainline facilities in this case should be certificated but such certification should be conditioned upon the submission of revised flow diagrams showing the facilities (both mainline and lateral) necessary to render the Tryon service, the cost of such facilities, and the incremental rate of return thereof.

Lateral Line—Lateral Line Policy

As previously indicated, Transco proposes to construct a 28-mile, 16-inch lateral from its main pipeline to Tryon, North Carolina. Tryon is not a natural terminus for the lateral. Transco's proposal contemplates that Public Service will construct a 16-inch connecting line approximately 8.71 miles from Tryon to its western line at Mill Springs. Transco contends that the economic feasibility of the portion of the service proposed to be rendered to the Tryon extension and the erection of the mainline facilities relating thereto is governed by its formula of lateral line policy.[10] The rate of return claimed for the lateral based on the third-year operation is 17.73 percent. The cost of the lateral as estimated by Transco under its formula is $1,790,000.[11]

The mathematical formula contained in Transco's policy statement reads as follows:[12]

> Transco's investment in any pipeline extension, excluding measuring station facilities, shall be based upon estimated third-year revenues gen-

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[10] See. Appendix III.

[11] Exh. 8, p. 21.

[12] Exh. 10.

> erated by sales from such extension for that year under Transco's CD, G and OG Rate Schedules, which estimate shall be acceptable to Transco. There will be deducted from the estimated third-year revenues (1) an amount representing the cost of gas included therein, which amount will be computed by multiplying the sales volumes for the third-year by the average cost per Mcf of gas purchased by Transco as reported in its latest FPC Form 2 filed with the Federal Power Commission, and (2) a system contribution which will be the result of multiplying the Mcf of Contract Demand, or Maximum Daily Quantity, utilized in computing the third-year revenues by $33. The net amount thus determined will be divided by 15% to obtain Transco's investment in any pipeline extension.

In addition to the mathematical formula, Transco's policy statement contains a statement of what is meant by "pipeline extension", and reservations or some of the factors to be considered in determining whether or not a lateral shall be built in a particular case. Transco asks that its lateral line extension policy be approved by the Commission, but that it not be made a part of its tariff.[12a] The Staff does not challenge the mathematics of Transco's formula but recommends that the reservations or last two paragraphs of Transco's statement be rejected. Staff also recommends incorporation in the tariff.

In *Michigan Wisconsin Pipe Line Company*, Opinion No. 471, August 30, 1965, the Commission stated (34 FPC 621, at p. 626):

> A consistent and predictable source of conduct of the supplier that affects its financial relationship with the consumer in our opinion is a 'practice' subject to the filing requirements. The filing of such a procedure as part of the pipeline tariff is not only consistent with but furthers the purpose underlying the filing and posting requirements of rate schedules. A pipeline tariff announces not only what the pipeline has done in the past but the terms and conditions upon which it would, as a matter of policy, provide service to new customers meeting the tariff's eligibility requirements. Even if the tariff were viewed as merely an informational description of existing service obligations, this description of the pipeline's actual practice would be of real benefit to both existing and potential customers, for it would show them, as well as the Commission, the terms by which gas would be sold upon completion of Section 7 proceedings.

In the Commission's NOTICE OF PROPOSED RULE MAKING, *in re* Statement of Lateral Line Policy in Rate Schedules Filed by Natural Gas Pipeline Companies, Docket No. R–301, April 12, 1966, the Commission observes:

> There is opportunity for unjust discrimination and undue preference among customers where a pipeline does not follow a consistent policy. Such being the case, whether it is the obligation of the pipeline company or of the customer to construct a lateral should not be left to negotiation in each individual instance.
>
> We believe, therefore, that each pipeline company should make a clear statement in its tariff describing its policy in building lateral lines. If its policy is not to build any lateral lines, or is to build all lateral lines, the tariff should so state. If a specific formula is used in determining the portion of the lateral line that the pipeline company will build, the tariff should so state and provide the formula. The appropriate place in the tariff for the statement of lateral line policy is in the General Terms and Conditions.

[12a] Initial brief, p. 14; Reply brief, p. 4.

The reservations contained in Transco's policy statement and the testimony of Mr. Henderson disclose that Transco's announced policy[13] lacks the degree of certainty and predictability which its customers have a right to reasonably expect. Mr. Henderson testified at length as to Transco's policies in explanation of Transco's lateral line policy.[14]

Transco in effect would reserve to itself the right to make the test of public convenience and necessity. The reservations claimed leaves Transco in each instance in the position of bargaining with its customers concerning whether a particular lateral will be built which in the end can readily lead to discrimination as between its respective customers. Some customers will have built or be required to build their own connecting lines, others will not.

In the Examiner's Opinion in *Transcontinental Gas Pipe Line Corporation*, Docket No. CP64–270, it was stated: (p. 940)

> The Examiner is convinced that Transco's historical experience militates against the construction of laterals or mainline extensions and the evidence advanced in this proceeding is insufficient to demonstrate the abandonment of the established precedent. Also, if permitted in this instance, the departure would obviously discriminate against existing customers who were in the past required to build facilities to reach Transco's mainline.

In the instant case, the evidence adduced indicates that Transco intends to build lateral lines or share such lines (part to be built by the customers) in particular cases. While the formula may provide some guidance for Transco's customers, the reservations attached to its policy statement (Exh. 10) enables Transco to follow or refuse to follow its policy as it may see fit. As previously indicated, Transco asks that its policy be approved. Approval of Transco's statement with the reservations would provide but little guidance to Transco's customers. Transco's policy statement even without the reservations is rather indefinite as to the situations in which Transco would construct a lateral extension. If a lateral line policy has any significance it must provide some prescription for the customers involved and the Commission, otherwise it is merely symbolic. Accordingly, the reservations contained in Transco's policy statement (the last two paragraphs) must be rejected.

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[13] Exh. 10.

[14] Tr. 61–67, 326–436, and particularly at pages 354–356, 361–367. In explanation of the formula, Mr. Henderson stated:

The first step is to take Transco's total revenues from its 1964 Form 2 on file with the Commission. The next step is to deduct from that total revenue figure the revenue derived from Transco's storage operations. The third step is to deduct from the above remainder the cost of gas purchased. The remainder thus arrived at represents all other system costs. The next step is to divide that figure for all other system costs by the daily capacity of the pipeline, which capacity figure represents the actual results of operation. The quotient thus arrived gives an average annual transmission cost of a rounded $66 per Mcf of capacity. Taking 50% of that $66 figure gives the $33 figure included in the formula (p. 65).

On cross-examination Mr. Henderson testified in part that:

Now we don't want to be in a position of having to file an application under section 7(c) of the Act for a line that we do not believe in and disagree with (Tr. 367).

I am saying that in addition to this mathematical formula, that we reserve the right to make the test of public convenience and necessity that we know the Commission is going to make, regardless of who files for this line, whether we file under section 7(c) or the customer files under section 7(a) (Tr. 368).

But the customer may disagree entirely with us. He may want a particular line, at a particular cost, at a particular location, that we don't think meets the test of public convenience and necessity, and yet we would be required to file an application for that if we didn't have the right to take a look at it and determine whether in our opinion it does meet this test and if in our opinion it doesn't, and the customer's opinion it does, then he can file. If we think it does, we file (Tr. 369).

In its reply brief Transco proposes a reservation[15] as a substitute in the event that the last two paragraphs of its policy statement are unacceptable. By the proposed revision, Transco on the one hand suggests that nothing in its lateral line policy shall preclude it from proposing projects which do not meet its mathematical formula, and on the other, yielding as to matters which are inherent under the Act. Also, under this reservation, Transco might well refuse to file an application under Section 7(c) to construct a lateral extension when it clearly and mainfestly should. The revision, like the language to be replaced, may be construed to negate the mathematical formula within Transco's discretion. The substitute reservation likewise is therefore rejected.

The Staff recommends that Transco's formula (mathematical formula) be incorporated in Transco's tariff. No line is drawn, however, as to whether this should be done merely in respect to the intervenors in this proceeding, in respect to Transco's customers in zone 2, or to be applied generally in zones 1, 2, and 3. No testimony was adduced for the Staff in justification for this request. Transco objects that its formula should not be incorporated in its tariff pending the outcome of the Commission's proceedings in Docket No. R-301 relating to lateral line policy. Transco says that incorporation would have the effect of rigidifying its policy and placing Transco at a disadvantage among its customers.

Since Transco relies in this proceeding on its announced policy in support of its application, there is some justification for requiring that it be incorporated in its tariff notwithstanding the proceedings in Docket No. R-301. But the record is devoid of evidence of the effect of the application of Transco s formula to customers in zones 1 and 3 and indeed as to customers, other than the intervenors to this proceeding, in zone 2. The varying rates in the respective zones would necessarily affect the application of Transco's formula. What this would be might better be shown in a proceeding to show cause. Accordingly, based on the record here, we are of the opinion that Transco should not be required to incorporate its formula into its tariff.

We conclude also, based on the evidence of record and Transco's lateral line formula, that Transco is obliged not to stop short with the construction of its proposed lateral at Tryon but to extend it some 7.3 miles beyond, or to Mill Springs. Utilizing its own estimates there is a surplus of approximately $475,000 under its formula, above the cost of construction to Tryon, which if utilized would enable Transco to extend its line about 7.3 additional miles beyond Tryon. This would save Public Service the expense of building a line from Tryon to Mill Springs. Insofar as Public Service is concerned, there is no serious opposition to the extension by Transco. The Tryon destination under the proposal is not an actual delivery point, but seems to have been arrived at after negotiations between Transco and Public Service. This was admitted by Mr. Henderson. Construction beyond Tryon would be beneficial also to Transco's other customers besides Public Service, so that Transco's lateral line policy in turn would be useful to a larger consuming public than would be possible otherwise. The conclusions reached herein were arrived at after consideration of the entire record.

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[15] The text of the reservation is as follows:

Nothing contained in this policy statement shall be construed to compel Transco to file an application under Section 7(c) to construct any lateral extension which Transco deems impractical, infeasible, unnecessary or not in the public interest, even though such lateral line project may fit the mathematics of the formula. This reserved privilege shall not preclude review by the Commission of Transco's refusal to file a 7(c) application through appropriate proceeding' instituted before the Commission by the person seeking the construction of the lateral line extension. Furthermore, nothing in this policy statement shall preclude Transco from proposing to the Commission, through an application filed under Section 7(c), the construction of a lateral line project which may not meet the mathematics of the formula.

FINDINGS AND CONCLUSIONS

Upon consideration of the entire record in this proceeding, including the briefs and arguments of Counsel, it is found and concluded in addition to the other findings and conclusions heretofore stated, that:

(1) The Transcontinental Gas Pipe Line Corporation is engaged in the transportation of natural gas in interstate commerce and in the sale in interstate commerce of natural gas for resale for ultimate public consumption and is therefore a "natural-gas company" within the meaning of the Natural Gas Act.

(2) The facilities which Transco proposes to construct and operate, as described in its application in Docket No. CP66-150, will be used in the transportation and sale of natural gas in interstate commerce for resale, subject to the jurisdiction of the Commission, and the construction and operation of such facilities are subject to the requirements of subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Transco is able and willing properly to do all the acts, to make the sales and to perform the services proposed by it in Docket No. CP66-150, and to conform to the provisions of the Natural Gas Act, and the requirements, rules, and regulations of the Commission thereunder.

(4) The facilities to be constructed and operated by Transco and referred to in paragraph (2) above, are adequate and appropriate to render the services which Transco is authorized to provide as hereinafter ordered and conditioned.

(5) The construction and operation of the mainline facilities and the new sales of natural gas proposed by Transco, namely, 21,442 Mcf per day of firm gas to the Public Service Company of North Carolina and 1,114 Mcf per day to the Piedmont Natural Gas Company, are required by the public convenience and necessity, and certificates therefor should be issued as hereinafter ordered and conditioned.

(6) Transco's application in this proceeding was filed with the Commission on November 12, 1965; its lateral line policy was filed thereafter.

(7) The lateral extension proposed in this proceeding calls for the construction of a 28-mile pipeline lateral by Transco, and contemplates the construction of 8.75 miles by one of its customers, the Public Service Company of North Carolina, and in point of fact is a continuing connection between Transco's pipeline near Spartanburg and the main western transmission line of Public Service at Mill Springs.

(8) The application of Transco's lateral line policy requires, insofar as possible, that it provide similar treatment to all Transco's customers which may be directly affected.

(9) The application of Transco's lateral line policy to the proposed Tryon extension is estimated to cost approximately $1,790,000, leaving a balance of $475,000 for application in the construction of the lateral for some 7.3 miles beyond Tryon, which under Transco's estimates is feasible, and Transco's lateral policy should be so applied.

(10) Transco's lateral line policy (Appendix III), excepting the last two paragraphs thereof, is incident to the record in this proceeding and its sanction is limited to the record herein.

(11) The authorization herein granted for the construction and operation of the lateral referred to in (2) and (9) above are necessary and required by the public convenience and necessity.

(12) The public convenience and necessity require (a) that the general terms and conditions set forth in paragraphs (a), (b), (c)(3), (c)(4) and (e) of Section 157.20 of the Commission's Regulations under the Act shall attach to the certificates hereinafter issued to Transco and to the exercise of the rights granted thereunder, and that the time within which the facilities authorized by this order shall be constructed and placed in actual operation shall be fixed at one year from the effective date of the final order herein.

ORDER

WHEREFORE *It is hereby ordered*, subject to review by the Commission, that,

(A) A certificate of public convenience and necessity is hereby issued to the Transcontinental Gas Pipe Line Corporation, upon the terms and conditions of this order and subject to all the pertinent provisions of the Natural Gas Act and the Commission's rules and regulations issued thereunder, authorizing Transco to construct and operate the facilities proposed herein, the transportation and sale of 22,556 Mcf per day of natural gas in interstate commerce, as more fully described in Transco's application and upon the following terms and conditions:

(1) An authorization is hereby granted to construct the mainline loops only to the extent and insofar as they are not finally authorized in Docket Nos. CP64-270 and CP65-181. In the event that any of the facilities for which authorization is requested in the foregoing dockets may not be authorized, then within thirty days from final Commission decision therein, Transco shall (a) submit revised flow diagrams setting forth the facilities necessary to render the Tryon service; (b) the cost associated with such facilities; and (c) a showing of the incremental rate of return on such facilities.

(2) Authorization is hereby granted for the construction of the 16-inch lateral and the facilities directly incident thereto, extending from Transco's pipeline near Spartanburg to Mill Springs, or to a point some 7.3 miles beyond Tryon in accordance with Transco's lateral line policy as indicated in the findings above.

(B) The certificate issued in paragraph (A) above shall be accepted in writing by a responsible official of Transco, and the general terms and conditions set forth in (a), (c) and (e) of Section 157.20 of the Commission's Regulations under the Natural Gas Act shall attach to the issuance of such certificate, and to the exercise of the rights granted thereunder.

HARRY C. SHRIVER,
Presiding Examiner.

APPENDIX III

TRANSCONTINENTAL GAS PIPE LINE CORPORATION

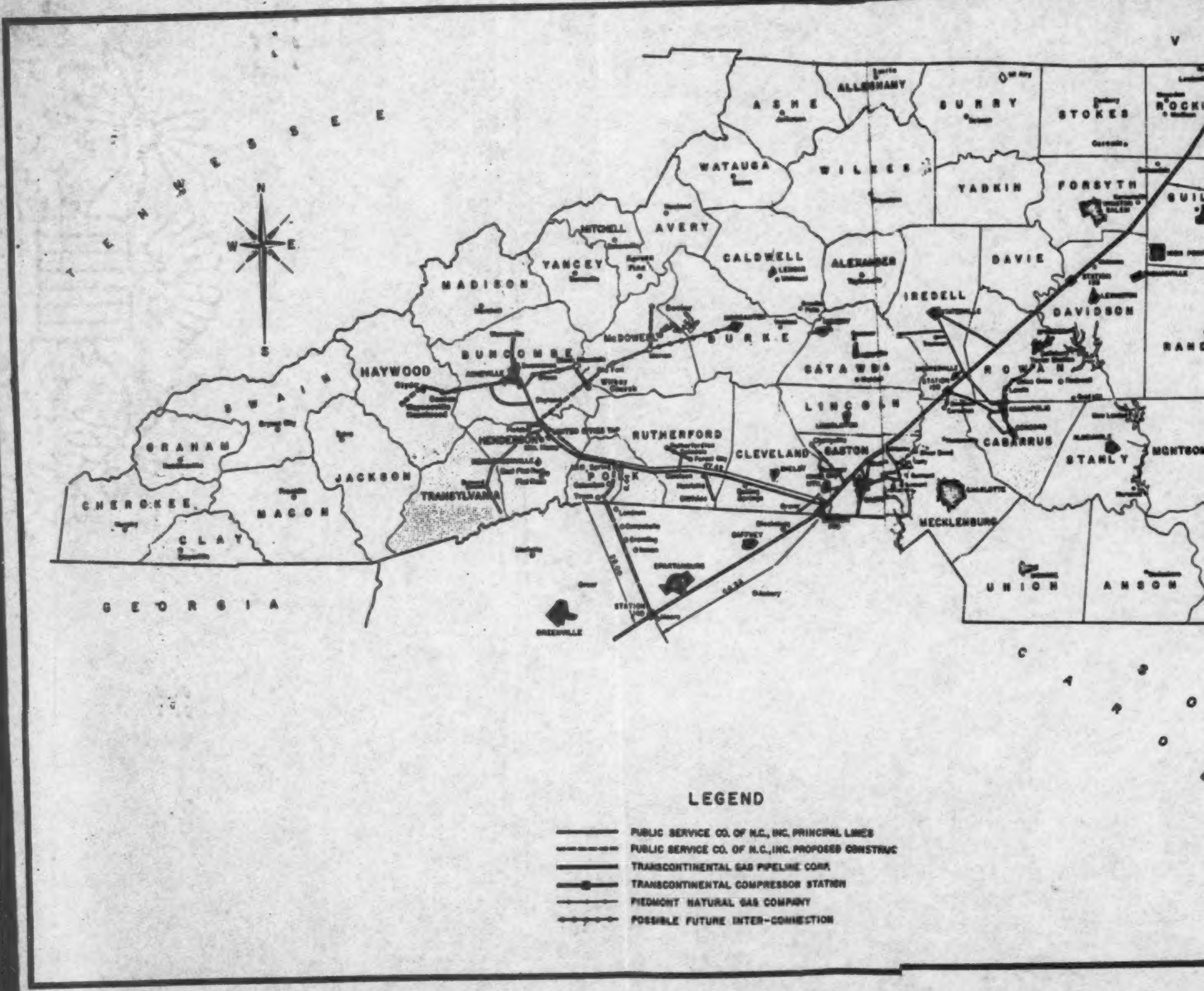
Statement Re: Extension Of Pipeline Facilities For New Service

Pursuant to informal request from the Commission's Staff, Transcontinental Gas Pipe Line Corporation hereby advises the Commission with respect to its policy in considering extensions of pipeline facilities for new services.

Transcontinental, in determining the position it will take with respect to proposals for pipeline extensions, including applications under Sections 7(a) and 7(c), will subject the proposals to the following economic test:

> Transco's investment in any pipeline extension, excluding measuring station facilities, shall be based upon estimated third-year revenues generated

APPEN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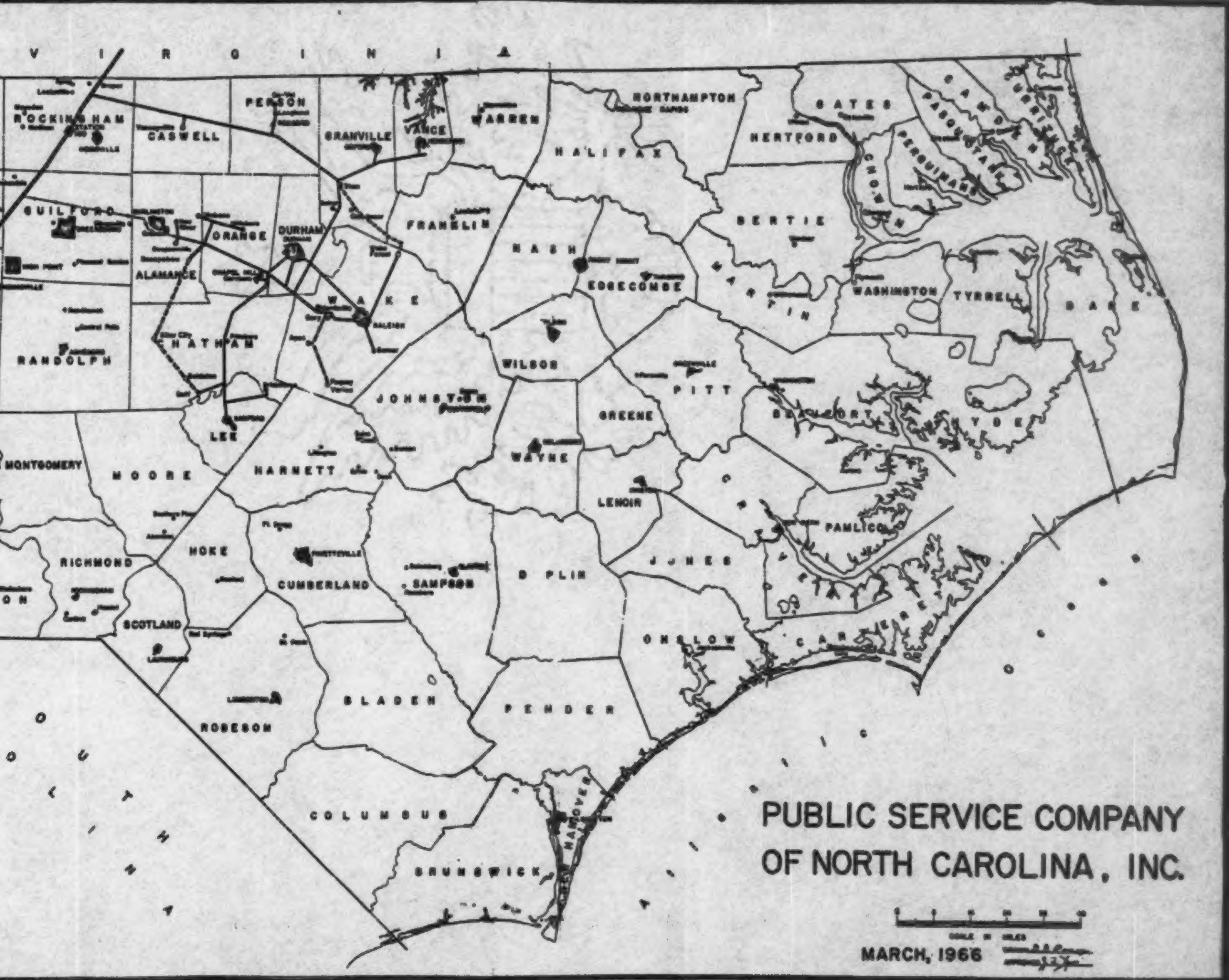
PUBLIC SERVICE CO. OF N.C., INC. PRINCIPAL LINES
PUBLIC SERVICE CO. OF N.C., INC. PROPOSED CONSTRUC
TRANSCONTINENTAL GAS PIPELINE CORP.
TRANSCONTINENTAL COMPRESSOR STATION
PIEDMONT NATURAL GAS COMPANY
POSSIBLE FUTURE INTER-CONNECTION

PPENDIX I

DOCKET NO. CP66-180
EXHIBIT NO. 11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MONTGOMERY
MOORE
HARNETT
WAYNE
LENOIR
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RICHMOND
HOKE
CUMBERLAND
SAMPSON
DUPLIN
JONES
SCOTLAND
ONSLOW
CARTERET
BLADEN
PENDER
ROBESON
COLUMBUS
NEW HANOVER
BRUNSWICK
SOUTH CAROLINA
ATLANTIC
RALEIGH
FAYETTEVILLE
SCALE IN MILES

PUBLIC SERVICE COMPANY
OF NORTH CAROLINA, INC.

MARCH, 1966

by sales from such extension for that year under Transco's CD, G and OG Rate Schedules, which estimate shall be acceptable to Transco. There will be deducted from the estimated third-year revenues (1) an amount representing the cost of gas included therein, which amount will be computed by multiplying the sales volumes for the third-year by the average cost per Mcf of gas purchased by Transco as reported in its latest FPC Form 2 filed with the Federal Power Commission, and (2) a system contribution which will be the result of multiplying the Mcf of Contract Demand, or Maximum Daily Quantity, utilized in computing the third-year revenues by $33. The net amount thus determined will be divided by 15% to obtain Transco's investment in any pipeline extension.

"Pipeline extension," for purposes of this statement, shall include any extension from Transcontinental's existing system involving pipe of not less than 4 inches diameter and not more than 20 inches O. D. For pipeline extensions larger than 20 inches, for supply of gas to more than one customer at mainline pressures, management reserves the right to construct such extension as part of its mainline facilities where the facts and circumstances show such to be in the public interest.

While the above sets forth a simplified uniform test, it must be recognized that there are many factors which must be considered in making a judgment determination whether to make a significant extension of the pipeline system. It must be considered whether the extension will enable resale markets to be obtained which would not otherwise be obtained and whether the areas to be served are presently without natural gas service or are inadequately served. Growth prospects of the markets being entered must be evaluated. Continuity of service to major market areas is of significant importance. Competition in existing market areas must be a consideration. Possible exposure to state taxes greatly in excess of the revenues to be received as a result of constructing extensions in some jurisdictions, or the possibility of being classified as a local public utility, under state law, must be considered.

It is, of course, not possible to list all pertinent factors which must be considered as they may arise in the future and the above are only illustrative.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

UNITED GAS PIPE LINE COMPANY, DOCKET NO. CP67–43

FINDINGS AND ORDER AFTER STATUTORY HEARING PERMITTING AND APPROVING ABANDONMENT OF SERVICE AND FACILITIES

(Issued December 19, 1966)

On August 24, 1966, United Gas Pipe Line Company (Applicant) filed in Docket No. CP67–43 an application, as supplemented on September 15, 1966, pursuant to Section 7(b) of the Natural Gas Act for permission and approval for the removal and abandonment of certain natural gas facilities, all as more fully set forth in the application.

Specifically, Applicant seeks permission and approval for the removal, abandonment and sale of the following facilities:

1. Refugio Compressor Station No. 1, consisting of 8 Hope Type 3 VSA 160 horsepower compressor units located in Lot No. 2, Block 6, Fee 2144, Refugio County, Texas;

2. Edna Compressor Station No. 1, consisting of 24 Hope Type 3 VSA 160 horsepower compressor units located in the Elizabeth McNutt Survey, Fee 2259, Jackson County, Texas;

3. Sterlington Compressor Station No. 1, consisting of 4 Cooper Bessemer Type TSA 170 horsepower compressor units located in Sections 31 and 32, Township 20 North, Range 4 East, Fee 2271, Ouachita Parish, Louisiana; and

4. Burns Compressor Station, consisting of one Ingersoll Rand Type XVG 150 horsepower compressor unit, located in Section 15, Township 17 South, Range 9 East, SL 3326, St. Mary Parish, Louisiana.

The functions of three of these compressor stations, Refugio No. 1, Edna No. 1, and Sterling No. 1, are now being performed by their related number 2 stations. Burns Compressor Station was originally installed to recover flare gas from Applicant's offshore two-phase flow operations and is no longer needed for that purpose.

These compressor stations are no longer needed in Applicant's operations and none have been operated since December, 1961.

Applicant proposes to salvage and sell as scrap the majority of the facilities proposed to be abandoned. Some minor portions will remain in service as part of the remaining compressor facilities at the sites of the first three of the aforementioned stations.

After due notice, no protest, petition to intervene or notice of intervention has been filed herein.

At a hearing held on December 15, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, United Gas Pipe Line Company, a Delaware corporation, having its principal place of business in Shreveport, Louisiana, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of November 10, 1942, in Docket No. G-232 (3 FPC 863).

(2) The facilities to be abandoned, as hereinbefore described, and as more fully described in the application in this proceeding, are used in the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission, and abandonment of such facilities is subject to the requirements of Subsection (b) of Section 7 of the Natural Gas Act.

(3) The abandonment by Applicant, as hereinbefore described, is permitted by the public convenience and necessity and an order approving same should be issued as hereinafter ordered and conditioned.

The Commission orders:

(A) Permission for and approval of the abandonment by Applicant of the facilities hereinbefore described, all as more fully described in the application in this proceeding, are granted upon the terms and conditions of this order.

(B) The time within which the abandonment of the facilities hereinbefore described, as authorized in paragraph (A) above, shall be accomplished is fixed at 6 months from the date of this order.

(C) Applicant shall advise the Commission of the date of said abandonment within ten days thereof.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

WISCONSIN POWER AND LIGHT COMPANY AND MICHIGAN WISCONSIN PIPE LINE COMPANY, DOCKET NO. CP67-100

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS

(Issued December 19, 1966)

On October 17, 1966, Wisconsin Power and Light Company (Applicant) filed in Docket No. CP67-100, an application pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing Michigan Wisconsin Pipe Line Company (Respondent) to establish physical connection of its transportation facilities with the facilities proposed to be constructed by Applicant and to sell and deliver to Applicant up to 878 Mcf of natural gas per day for resale and distribution in the villages of Cambria and Randolph and the adjoining towns of Springvale, Courtland, Randolph, Fox Lake and Westford in Columbia and Dodge Counties, Wisconsin, all as more fully set forth in the application.

Specifically, Applicant proposes to construct and operate distribution systems in the aforementioned service areas and 1 mile of 6-inch and 5 miles of 4-inch lateral pipelines connecting the service areas to Respondent's facilities.

Applicant further proposes that Respondent, pursuant to its "10-cent formula", construct 7.8 miles of 4-inch lateral pipeline from its transmission system, serving the Madison-Weyauwega area of Wisconsin to a terminal gate station connecting with Applicant's proposed facilities.

Applicant has been granted certificate authority by the Public Service Commission of Wisconsin in Docket No. CA-4653, dated July 14, 1966, and franchises by the villages of Cambria and Randolph on July 5, 1966 and August 2, 1965, respectively.

Applicant's estimated third-year annual and peak day requirements are 234,320 Mcf and 878 Mcf of natural gas, respectively.

The total estimated cost of Applicant's proposed project is $397,750, which cost will be financed from cash on hand or from funds borrowed from the sales of securities as may be necessary as a part of Applicant's overall construction program.

Respondent has filed no reply to the instant application and in accordance with Section 156.7 of the Commission's Regulations under the Natural Gas Act, it is assumed that Respondent has no objection to the issuance of an order as requested by Applicant.

After due notice, no petition to intervene, notice of intervention or protest has been filed herein.

The Commission finds:

(1) Respondent, Michigan Wisconsin Pipe Line Company, a Delaware corporation with its principal place of business in Detroit, Michigan, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of November 30, 1946, in Docket No. G-669 (5 FPC 953).

(2) Applicant, Wisconsin Power and Light Company, a corporation organized and existing under the laws of the State of Wisconsin, is authorized to construct and operate facilities and distribute and sell natural gas as proposed.

(3) It is necessary and desirable in the public interest that Respondent be directed to establish physical connection of its natural gas transmission facilities with the proposed facilities of Applicant and to sell and deliver natural gas to Applicant, as set forth in the application and as hereinafter ordered and conditioned.

(4) This order should be conditioned upon Applicant being prepared to receive natural gas from Respondent, as proposed, within one year from the date on which this order issues.

(5) The requirement that Respondent serve Applicant, as proposed, will not place any undue burden upon Respondent nor impair its ability to render adequate service to its existing customers.

The Commission orders:

(A) Respondent is directed to establish physical connection of its natural gas transmission system with the facilities to be constructed by Applicant and to sell and deliver up to 878 Mcf of natural gas per day to Applicant, all as hereinbefore described and as more fully described in the application in this proceeding.

(B) Applicant shall be prepared to receive natural gas from Respondent within one year from the date of this order.

(C) Respondent shall notify the Commission of the commencement of service to Applicant within 10 days thereof.

(D) Respondent shall execute and file with the Commission a service agreement with Applicant in accordance with the Commission's Regulations under the Natural Gas Act.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Carl E. Bagge and John A. Carver, Jr.

REPORTING OF MAJOR ELECTRIC POWER INTERRUPTIONS BY ALL ENTITIES ENGAGED IN GENERATION AND TRANSMISSION, DOCKET NO. R-302

ORDER NO. 331

PRESCRIBING REPORT OF BULK ELECTRIC POWER SUPPLY INTERRUPTIONS

(Issued December 20, 1966)*

The Commission in this order is amending its regulations to require all public utilities, licensees and other entities engaged in the generation or transmission of electric energy, whether or not otherwise subject to the jurisdiction of the Commission, to report major interruptions of bulk power supply. This regulation applies to privately, publicly and cooperatively owned systems.

The Federal Power Commission has the statutory responsibility for encouraging actions to assure an abundant supply of electric energy throughout the country and is authorized by subsection 202(c) of the Federal Power Act to take appropriate action as in its judgment will best meet an emergency situation arising out of any failure of an adequate power supply. In addition, section 207 requires the Commission, under certain circumstances, to determine and fix by order the proper, adequate or sufficient interstate service to be rendered by a public utility. Under section 311 of the Act the Commission is responsible for reporting the problems and developments of the electric industry to Congress and is directed to collect information regarding the generation, transmission, distribution and sale of electric energy, however produced, and whether or not otherwise subject to its jurisdiction. The information which we are requiring will enable us more adequately to carry out these responsibilities.

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*Published in the Federal Register on December 30, 1966 (31 F.R. 16691).

The regulation prescribed by this order will enable the Commission to keep currently informed of major service interruptions in bulk power supply. It establishes a reporting system, applicable to all segments of the electric industry, which will secure necessary information during a service interruption or in the period immediately thereafter. It will not necessarily secure all the data which would be desirable in order to build up comprehensive statistics on the reliability of electric power service. (For example, this regulation does not provide for collecting data on the equipment outages which electric systems sustain without interruption of service.)

On April 14, 1966, we issued a Notice of Proposed Rulemaking in this proceeding, published in the Federal Register on April 20, 1966 (31 F.R. 6055) and, thereby, invited the submission of comments by May 17, 1966 with respect to the proposal. The date for submission was subsequently extended to June 17, 1966 (31 F.R. 7287). Some eighty responses were received.[1] A majority indicated that immediate reporting could interfere with service restoration and perhaps the release of misleading information. There were many suggestions for increasing the minimum magnitude of reportable interruptions, for excluding interruptions affecting customers served under interruptible contracts, for excluding interruptions affecting only one large industrial customer, and for less prompt reporting. Some features which needed clarification were noted.

We recognize the merit of the points raised and certainly do not wish to interfere with service restoration. We believe we can largely avoid this by allowing time for reasonably expeditious initial reporting and permitting initial reporting to be limited to the bare essentials necessary for appraising the general significance of the interruption. We are providing, also, that for the purpose of defining a reportable interruption, the aggregate of loads interrupted shall not include any load which is interrupted pursuant to the terms of the contract under which such load is served. For all other interruptions, however, we believe it is desirable to retain the magnitudes and duration of interruption originally proposed for both telephonic and telegraphic reporting. Increasing these limits could result in a failure to report significant interruptions of service without being reported. Furthermore, on the basis of the views presented to us and of the experimental voluntary reports during the period after issuance of the notice we doubt that the frequency of required reporting will result in being a burden on either the utilities or the Commission.

We have given careful consideration to all of the comments received and have adopted several of the suggestions made and we believe that the text of the regulations here prescribed will make clear our original intention to require prompt reporting of major interruptions of bulk power supply of public significance without unduly impeding service restoration.

The Commission therefore finds:

(1) It is necessary and appropriate for the administration of the Federal Power Act that the amendment of the Commission's regulations set out in paragraph (A), below, be adopted.

---

[1] A list of the respondents is appended.

(2) In view of the foregoing, it is necessary and appropriate that the interruption reporting procedure proposed in the notice of proposed rulemaking issued in this proceeding be revised and, as so revised, now be prescribed.

The Commission, acting pursuant to the authority of the Federal Power Act, as amended, particularly sections 202, 207, 304, 307, 309 and 311 (49 Stat. 848, 853, 855, 856, 858, 859, as amended 67 Stat. 461; 16 U.S.C. 824a, 824f, 825c, 825f, 825h, 825j), *orders:*

(A) Part 141, Subchapter D, Chapter I, Title 18 of the Code of Federal Regulations, is amended by adding a new § 141.58 to read as follows:

§ 141.58 Report of bulk electric power supply interruptions.

(a) *Definitions.* For the purpose of this rule, a bulk electric power supply interruption shall be any interruption or loss of service to customers of any electric utility, licensee, or other entity engaged in the generation or transmission of electric energy caused by or involving an outage of any generating unit or of electric facilities operating at a nominal voltage of 69 kv or higher. In determining the aggregate of loads which are interrupted, any load which is interrupted in accordance with the provisions of contracts permitting interruption in service shall not be included. If the interruption affects only a single ultimate customer, the interruption need not be reported. For the purpose of this rule a report or a part of a report may be made jointly by two or more entities.

(b) *Telephonic reports.* Every electric utility, licensee and other entity engaged in the generation or transmission of electric energy shall report to the Commission's Washington office by telephone any loss in service for 15 minutes or more of bulk power supply to aggregate loads in excess of 200,000 kw. Calls should be placed as soon as practicable without unduly interfering with service restoration and in any event within one hour after the beginning of the interruption to Area Code 202, number 962–1307. This number is in service at all times. The information supplied in the initial telephonic report should include at least the approximate territory affected by the interruption, the time of occurrence, an estimate of the number of customers and amount of load involved, and an appraisal of the likely duration of the interruption. To the extent known or suspected, the report desirably will include a description of the cause(s) of the interruption and a description of the initial incident resulting in the interruption. The Commission or the Chief of its Bureau of Power may require further reports during the period of interruption and restoration of service, such reports to be made by telephone or telegraph or both as required.

(c) *Telegraphic reports.* Every electric utility, licensee and other entity engaged in the generation or transmission of electric energy shall report to the Commission's Washington office by telegram any loss in service for 15 minutes or more of bulk power supply to aggregate loads exceeding the lesser of 25,000 kw or half the system load, and not required to be reported under paragraph (b) above. The report shall be sent to the Chief, Bureau of Power, Federal Power Commission, 441 G Street, N.W., Washington, D.C. within two hours after the beginning of the service interruption. The information supplied shall include the approximate territory affected by the interruption, a description of the initial incident resulting in the interruption, cause of the interruption or an appraisal of the likely duration of the interruption, and an estimate of the number of customers and amount of load involved. To the extent known or suspected, the report should include the time of occurrence and the time or times of restoration. Telephonic reports in lieu of telegraphic reports will be accepted (Area Code 202, Number 962–1307) if preferred by the respondent.

(d) *Report of details.* (1) If so directed by the Commission or the Chief of its Bureau of Power, an entity experiencing a service interruption of bulk power supply reportable under paragraphs (b) or (c) of this section shall submit a full report of the circumstances of the interruption and the conclusions the entity has drawn therefrom. The report shall be filed at such time subsequent to the submittal of the initial report by telephone or telegram as may be directed by the Commission or the Chief of its Bureau of Power.

(2) The report shall be prepared in such detail as may be appropriate to the severity and complexity of the incident experienced and should include an account understandable to the informed layman in addition to the following technical and other information:

(i) The cause or causes of the initial disturbance clearly described, including the manner in which the incident was initiated.

(ii) A description of any operating conditions of an unusual nature preceding the initiation of the disturbance.

(iii) If the interruption was geographically widespread, an enumeration of the sequence of events contributing to its spread.

(iv) An account of the measures taken which prevented further spreading in the loss of service, *e.g.*, manual or automatic load shedding, unit isolation, or system sectionalization. These actions and all chronicled events should be keyed to a record of the coincident power frequencies which occurred.

(v) A description of the measures taken to restore service with particular evaluation of the availability of start-up power and the ease or difficulty of restoration.

(vi) A statement of the capacity of the transmission lines into the area of load interruption, the generating capacity in operation in the area at the beginning of the disturbance, and the actual loading on the lines and generating units at that time.

(vii) A summary description of any equipment damage and the status of its repair.

(viii) An evaluation of the impact of the interruption on people and industries in the affected area, including a copy of materials in the printed news media indicative of the impact.

(ix) Information on the steps taken, being taken, or planned by the utility, to prevent recurrence of interruption of a similar nature, to ease problems of service restoration, and to minimize impacts on the public and the customers of any future service interruption.

(Secs. 202, 207, 304, 307, 309, 311; 49 Stat. 848, 853, 855, 856, 858, 859, as amended 67 Stat. 461; 16 U.S.C. 824a, 824f, 825c, 825f, 825h, 825j.)

(B) This amendment shall be effective December 31, 1966.

(C) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

Respondents Filing Comments

Alabama Power Company.

Allegheny Power Service Corporation.

American Electric Power Service Corporation on behalf of: Appalachian Power Company, Indiana & Michigan Electric Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Electric Company.

Arizona Public Service Company.

Arkansas Power & Light Company.

Baltimore Gas and Electric Company.
Basin Electric Power Cooperative.
Boston Edison Company.
California-Pacific Utilities Company.
Carolina Power & Light Company.
Central Illinois Light Company.
Central Illinois Public Service Company.
The Cleveland Electric Illuminating Company.
Cleveland Electric System.
Commonwealth Edison Company.
Community Public Service Company.
The Connecticut Light & Power Company (combined comment): Western Massachusetts Electric Company, The Hartford Electric Light Company, The United Illuminating Company.
Cooperative Power Association.
Corn Belt Power Cooperative.
Cowlitz County PUD Electric and Water Service (Washington).
Duke Power Company.
Duquesne Light Company.
Edison Electric Institute.
Emergency Planning, Office of (Exec. Off. of the President).
Eugene, Oregon Water & Electric Board.
Fitchburg Gas and Electric Light Company.
Florida Power Corporation.
Florida Power & Light Company.
Georgia Power Company.
Gulf Power Company.
Gulf States Utilities.
State of Hawaii Public Utilities Commission.
Illinois Power Company.
Interior, Department of (Office of the Secretary) for: Bureau of Reclamation, Bonneville Power Administration, Defense Electric Power Administration.
Iowa Power and Light Company.
Iowa Southern Utilities Company.
Kansas City Power & Light Company.
The Kansas Power and Light Company.
State Corporation Commission of the State of Kansas.
Long Island Lighting Company.
Los Angeles, City of, Department of Water and Power.
Louisiana Power & Light Company.
Mississippi Power Company.
Mississippi Power & Light Company.
The Montana Power Company.
Nevada Power Company.
New England Electric System.
New York State Electric & Gas Corporation.
Niagara Mohawk Power Corporation.
Northern States Power Company.
Northwest Public Power Association.
Ohio Edison Company.
Oklahoma Gas and Electric Company.
Otter Tail Power Company.
Pacific Gas and Electric Company.

Pacific Power & Light Company.
Pennsylvania Power Company.
Pennsylvania Power & Light Company.
Philadelphia Electric Company.
Plains Electric Generation and Transmission Cooperative, Inc.
Portland General Electric Company.
Power Authority of the State of New York.
Public Service Company of New Mexico.
Public Utility District No. 1 of Chelan County (Washington).
Public Utility District No. 1 of Douglas County (Washington).
Public Utility District No. 2 of Grant County (Washington).
Puget Sound Power & Light Company.
Sacramento Municipal Utility District.
Salt River Project (Arizona).
City of Seattle Department of Lighting.
South Carolina Electric & Gas Company.
South Carolina Public Service Authority (Santee-Cooper).
Southern California Edison Company.
Southwestern Electric Power Company.
Southwestern Public Service Company.
Tacoma, Washington, City of, Department of Public Utilities.
Tampa Electric Company.
Tennessee Valley Authority.
Union Electric Company.
Virginia Electric and Power Company.
The Washington Water Power Company.
Wisconsin Electric Power Company.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

ARKANSAS LOUISIANA GAS COMPANY, DOCKET NO. CP67-91

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued December 21, 1966)

On October 10, 1966, Arkansas Louisiana Gas Company (Applicant) filed in Docket No. CP67-91 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction during the calendar year 1967 and the operation of miscellaneous natural gas facilities to enable Applicant to take into its certificated main pipeline system natural gas which will be purchased from producers thereof, all as more fully set forth in the application in this proceeding.

The purpose of this "budget-type" application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system new and existing supplies of natural gas in various producing areas generally coextensive with said system.

The total cost of the facilities covered by this application will not exceed a maximum of $3,459,400, with no single project to exceed a cost of $500,000, which costs are proposed to be financed from funds on hand, cash generated by operations and from internal sources.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on December 15, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Arkansas Louisiana Gas Company, a Delaware corporation having its principal place of business in Shreveport, Louisiana, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of January 26, 1943, in Docket No. G–252 (3 FPC 910).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Applicant should submit within 60 days after the expiration of the authorization granted hereinafter, a statement in compliance with subparagraph (3) of Section 157.7(b) of the Commission's Regulations under the Natural Gas Act.

(6) Public convenience and necessity require that the certificate hereinafter issued and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e), (f) and (g) of Section 157.20 of said Regulations.

(7) The authorization hereinafter granted should be limited to construction during the calendar year 1967 and the total expenditures for facilities to be constructed thereunder should be limited to a maximum of $3,459,400, with no single project to exceed a cost of $500,000.

The Commission orders:

(A) Upon the terms and conditions of this order, a certificate of public convenience and necessity is issued authorizing Applicant, Arkansas Louisiana Gas Company, to construct during the calendar year 1967 the proposed facilities hereinbefore described, as more fully described in the application in this proceeding, and to operate such facilities only to take natural gas supplies from producers who have received authorization from the Commission to sell natural gas to said Applicant.

(B) Applicant shall submit within 60 days after the expiration of the authorization granted by paragraph (A) above a statement in compliance with subparagraph (3) of Section 157.7(b) of the Commission's Regulations under the Natural Gas Act.

(C) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e), (f) and (g) of Section 157.20 of said Regulations.

(D) The authorization granted in paragraph (A) above is limited to construction during the calendar year 1967, and the total expenditures for facilities to be constructed thereunder are limited to a maximum of $3,459,400, with no single project to exceed a cost of $500,000.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

BLUEBONNET GAS CORPORATION, DOCKET NO. CP67-123

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued December 21, 1966)

On November 2, 1966, Bluebonnet Gas Corporation (Applicant) filed in Docket No. CP67-123 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas gathering facilities and the transportation and sale of natural gas to Florida Gas Transmission Company (Florida), an existing customer, all as more fully set forth in the application in this proceeding.

Specifically, Applicant proposes to construct and operate metering, regulating, and requisite interconnecting facilities required to transport gas purchased by Applicant in the State of Louisiana from Franks Petroleum, Inc., Operator (Franks), which gas will be produced in the Bayou Fordoche Field, Pointe Coupee Parish. Said gas is to be sold to Florida at a point in Pointe Coupee Parish where Florida's transmission line traverses the State of Louisiana.

The present estimate of reserves dedicated to Applicant by contract with Franks is 1,018 MMcf at 15.025 psia. Estimated daily deliveries are 600 Mcf of natural gas which will be sold under Applicant's presently effective FPC Rate Schedule X-1.

On August 18, 1966, Franks filed with the Commission in Docket No. CI67-188 an application for a certificate of public convenience and necessity authorizing the sale of natural gas to Applicant.

Applicant estimates the total cost of its proposed facilities, including a tap to Florida's transmission line, to be $10,500. Applicant proposes to issue 10,500 additional shares of $1.00 par value common stock to its parent, Lumar Gas Corporation, to finance the subject project.

At a hearing held on December 21, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Bluebonnet Gas Corporation, a Texas corporation with its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of May 21, 1965, in Docket No. CP65-326 (33 FPC 1032).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof and the sale of natural gas by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The aforesaid construction and operation of facilities and transportation and sale of natural gas are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) The certificate hereinafter issued should be issued concurrently with the related certificate to be issued to Franks Petroleum, Inc., Operator, in Docket No. CI67-188.

(6) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Applicant, Bluebonnet Gas Corporation, authorizing the construction and operation of facilities and transportation and sale of natural gas hereinbefore described, as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

(C) The certificate issued by paragraph (A) above shall be issued concurrently with the related certificate to be issued to Franks Petroleum, Inc., Operator, in Docket No. CI67-188.

(D) The certificate issued by paragraph (A) above is conditioned upon Applicant filing with the Commission a revision of Rate Schedule X-1 reflecting the additional reserves dedicated to it by Franks Petroleum, Inc., Operator, as hereinbefore described and as more fully described in the application in this proceeding.

(E) The facilities hereby authorized shall be constructed and placed in actual operation, as provided by paragraph (b) of Section 157.20 of the Regulations under the Natural Gas Act, within 6 months from the date on which this order issues.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

SUN OIL COMPANY (SOUTHWEST DIVISION), DOCKET NO. RI67-152

ORDER ACCEPTING INCREASED RATE FILING AND TERMINATING PROCEEDING

(Issued December 21, 1966)

On November 2, 1966, Sun Oil Company (Southwest Division) (Sun) filed under its FPC Gas Rate Schedule No. 8, a "fractured" rate increase, from 10.81979¢ to 14.0¢ per Mcf, amounting to $239 annually, for gas sold to Natural Gas Pipeline Company of America from the LaGloria Field, Jim Wells and Brooks Counties, Texas (Railroad District No. 4). Although contractually due a higher rate, Sun limited its proposed increase so as not to exceed the area increased ceiling level, consistent with its settlement moratorium which prohibits the filing of increased rates in excess of the applicable area ceiling. Sun's moratorium provision expires August 1, 1967. The moratorium period was considered insufficient and since Sun did not waive its right to file for any further increases until its next contractual increased rate became due, the proposed rate increase, designated as Supplement No. 8 to Sun's FPC Gas Rate Schedule No. 8, was suspended for one day from December 3, 1966, the proposed effective date, by the Commission's order issued November 30, 1966, in Docket No. RI67-152. Sun has not filed its agreement and undertaking and the proposed increased rate has not been made effective subject to refund in accordance with paragraph (B) of the Commission's aforementioned suspension order issued November 30, 1966.

On November 29, 1966, Sun submitted a letter whereby it now waives its right to seek any amount higher than the 14.0¢ rate, inclusive of tax reimbursement, proposed in its rate increase filing, for the remainder of the relevant escalation period which expires January 3, 1969, but reserves its right to file for any increase up to any increased price level, if contractually entitled, which might in the future be established by the Commission. In view of the filing of the aforementioned waiver, we conclude that it would be in the public interest to accept Supplement No. 8 to Sun's FPC Gas Rate Schedule No. 8, suspended in Docket No. RI67-152, without refund obligations, effective as of December 4, 1966, the date such increase would have become effective subject to refund, and to terminate the suspension proceeding.

The Commission finds:

For the foregoing reasons, good cause exists for accepting the increased rate contained in Supplement No. 8 to Sun's FPC Gas Rate Schedule No. 8, without refund obligation, to be effective as of December 4, 1966, the date the proposed increased rate would have become effective subject to refund in Docket No. RI67-152, and for terminating the rate suspension proceeding in said docket.

The Commission orders:

(A) The 14.0¢ per Mcf rate increase contained in Supplement No. 8 to Sun's FPC Gas Rate Schedule No. 8 is accepted, without refund obligations, to be effective as of December 4, 1966.

(B) The rate suspension proceeding in Docket No. RI67-152 is terminated.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

VINCENT & WELCH, INC. (OPERATOR), ET AL., DOCKET NO. G-19261

ORDER ACCEPTING AMENDED OFFER OF SETTLEMENT, TERMINATING PROCEEDINGS, AND REQUIRING REFUNDS

(Issued December 21, 1966)

On October 3, 1966, Vincent & Welch, Inc. (Operator), *et al.* (V & W) filed an offer of settlement in Docket No. G-19261 pursuant to Section 1.18(e) of the Commission's Rules of Practice and Procedure, for a sale of natural gas to Transcontinental Gas Pipe Line Corporation (Transco) under its FPC Gas Rate Schedule No. 2 in the Grand Coulee Field, Acadia Parish, Louisiana.[1] V & W had been charging and collecting a rate of 18.5¢ per Mcf, since April 1, 1960, which proposed increased rate was suspended by order of the Commission, and had been made effective by V & W subject to refund in Docket No. G-19261 since that date. The last firm rate was 17.5¢ per Mcf of natural gas at 15.025 psia, inclusive of tax reimbursement.

On October 9, 1966, V & W amended its proposal to include a sale to Valley Gas Transmission, Inc. in the Woodlawn Field, Jefferson Davis Parish, Louisiana, at a rate of 17¢ per Mcf of natural gas at 15.025 psia, which rate is below the applicable area ceiling fixed by the Commission's Statement of General Policy No. 61-1 (18 CFR 2.56) and to apply a moratorium of 36 months to said sale from October 1, 1966. This is the only other jurisdictional sale of natural gas made by V & W.

Consequently, the amended proposal causes it to come within the refund formula set forth by us in *Jack W. Grigsby (Operator), et al.*, Docket Nos. RI61-96, RI62-536, 32 FPC 529, and we shall order refunds accordingly. Such refund monies will approximate $13,700, inclusive of interest, through September 30, 1966. It is noted that V & W propose that the date of termination of the interest computation be September 30, 1966; however, consistent with our past action, we shall require payment of interest to the date of issuance of this order. However, we shall require Transco to retain any such refund monies which may be due and owing to its customers. The Manufacturers Light and Heat Company and United Natural Gas Company, until such time as the Commission shall by final action determine the "flow-through" obligations of those companies to their respective purchasers of natural gas.

Since the proposed settlement rate is acceptable under the provisions of the Commission's Statement of General Policy No. 61-1, as amended, 18 CFR 2.56, the offer of settlement filed by V & W on October 3, 1966, and amended on October 9, 1966, and herein conditioned, is in the public interest and appropriate to carry out the provisions of the Natural Gas Act, and should be approved and made effective as hereinafter ordered.

Our action herein shall not be construed, nor may it be, as constituting approval of any future rate increase, if any, that may be filed under its remaining rate schedule, and is without prejudice to any findings or order of the Commission in any future proceedings, including area rate proceedings, or other similar proceedings, involving V & W's rate and rate schedule.

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[1] This sale ceased in 1963 and V & W was granted permission to abandon it by order of the Commission on December 1, 1966 in Docket No. CI67-375.

The Commission finds:

The proposed settlement of the proceeding herein, on the basis described herein, as more fully set forth in the offer of settlement filed with the Commission by V & W on October 3, 1966, as amended on October 9, 1966, and herein conditioned, is in the public interest and appropriate to carry out the provisions of the Natural Gas Act, and should be approved and made effective as hereinafter ordered.

The Commission orders:

(A) The offer of settlement filed with the Commission by V & W on October 3, 1966, as amended on October 9, 1966, is hereby approved in accordance with the provisions of this order.

(B) V & W shall refund to Transco to the date of last delivery the difference between the rate collected subject to refund in Docket No. G–19261 under the rate schedule herein and the related settlement rate, and shall report to the Commission in writing, within 45 days from the date of issuance of this order, the amount of such refund, showing separately the amount of principal and interest, and the bases used for such determination, and ten days thereafter shall file a release for the same from Transco.

(C) Transco shall retain such refund monies it receives from V & W which it computes is due and owing to The Manufacturers Light and Heat Company and United Natural Gas Company pending further action of the Commission.

(D) Upon notification by the Secretary of the Commission that V & W has complied with the terms and conditions of this order, the proceeding in Docket No. G–19261 shall be deemed terminated insofar as such proceedings pertain to sales made by V & W under the rate schedules involved therein.

(E) The acceptance by the Commission of V & W's offer of settlement is without prejudice to any findings or determination that may be made in any proceedings now pending, or hereafter instituted by or against V & W, including area rate or other similar proceedings.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

BANGOR HYDRO-ELECTRIC COMPANY, DOCKET NO. E–7316

ORDER AUTHORIZING ACQUISITION OF FACILITIES

(Issued December 22, 1966)

Bangor Hydro-Electric Company (Bangor) filed an application with the Federal Power Commission on October 17, 1966, seeking an order pursuant to Section 203 of the Federal Power Act authorizing it to acquire all of the electric facilities of Hampden and Newburg Light and Power Company (Hampden).

Bangor is incorporated under the laws of the State of Maine and qualified to do business in that state with its principal business office in Bangor, Maine, and is engaged in the electric utility business in the Maine counties of Penobscot, Hancock, Washington and Piscataquis and serves over 58,000 customers in this area.

Hampden is an electric utility organized under the laws of the State of Maine with its principal business office at Newburg, Maine and serves approximately 750 customers in four towns in Penobscot County and one town in Waldo County, all within the State of Maine. Hampden has no generating or transmission facilities of its own. It is interconnected with Bangor which furnishes the entire requirements of its system.

According to the application, the transaction contemplates the acquisition by Bangor of the entire electric operating property of Hampden. Most of the facilities are distribution property typically found in an electric utility. The facilities are currently and will continue to be used in the distribution of electric energy or sale at retail. Bangor intends to utilize all of the electric operating property to be required from Hampden.

Bangor and Hampden entered into an agreement on September 12, 1966, for the transfer of Hampden's properties, net assets, and franchises to Bangor in exchange for that number of Bangor's Common Stock, $5 par, that will allow each holder of Hampden's Capital Stock (Preferred and Common Stocks) to receive one share of Bangor's Common Stock in exchange for each full share so held of the Capital Stock of Hampden. Stockholders of Hampden whose fractional interests of Capital Stock equals or exceeds one-half share will receive a whole share of Bangor's Common Stock. This transaction will require 4,393 shares of Bangor's Common Stock.

Bangor has purchased the 4,393 shares of its Common Stock on the over-the-counter market at an average cost of $20.50 per share and at a total cost of $90,057. Bangor's transfer of these shares in exchange for Hampden's Net assets of $73,533 would have created an acquisition adjustment of $16,524 on the books of Bangor as of December 31, 1965. According to Bangor, any acquisition adjustment which will be created by the transaction will be eliminated by a debit to Earned Surplus. Upon the receipt of the shares of Common Stock from Bangor, Hampden will distribute them to its shareholders in the above-mentioned manner. Also upon receipt of these shares, the officers of Hampden will transfer Hampden's electric properties to Bangor and will institute proceedings to liquidate the corporation.

Bangor represents that the integration of the smaller electric utility system of Hampden into its integrated system, which is interconnected with the New England grid, will result in assuring an adequate supply of electric energy in the territory now served by Hampden at the generally lower rates of Bangor. After the transaction is completed, Bangor will put into effect its own rates for the former customers of Hampden. Bangor estimates that it will reduce annual residential rates by $14,571 or 19% and commercial rates by $1,630 or 1.3%.

Written notice of the application has been given to the Public Utilities Commission of Maine and to the Governor of that State. Notice was also published in the Federal Register on November 3, 1966, (31 F.R. 14088), stating that any person desiring to be heard or to make any protest with reference to said application should on or before November 17, 1966, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No protest or petition or request to be heard in opposition to the granting of the application has been received.

The Commission finds:

(1) Applicant, a corporation, owns and operates facilities for the transmission and sale at wholesale of electric energy which is generated in the States of New Hampshire and Massachusetts, and consumed in the State of Maine, all of which facilities are in addition to and do not include facilities used for the generation of electric energy, facilities used in local distribution, or only for the transmission of electric energy in intrastate commerce, or facilities for the transmission of electric energy consumed wholly by the trans-

mitter. Applicant is, therefore, a public utility within the meaning of that term as used in Section 203 of the Act.

(2) By the proposed transaction, Applicant will merge or consolidate its facilities subject to the jurisdiction of the Commission with those of Hampden, another person, within the meaning and subject to the requirements of Section 203 of the Federal Power Act.

(3) The proposed acquisition of facilities by Applicant, as described above, upon the terms and conditions set forth in the application, and subject to the provisions of this order will be consistent with the public interest as expressed in Section 203 of the Federal Power Act.

(4) The period of public notice given in this matter is reasonable.

The Commission orders:

(A) The proposed acquisition by Applicant of the aforementioned electric facilities, all as described above, is authorized and approved upon the terms and conditions and for the purposes set forth in the application subject to the provisions of this order.

(B) Applicant shall record the proposed transaction herein authorized and the facilities and properties referred to above as provided in the Commission's Uniform System of Accounts Prescribed for Public Utilities and Licensees.

(C) This authorization shall expire unless the transaction herein authorized and approved is consummated within 90 days from the date of issuance of this order.

(D) The foregoing authorization is without prejudice to the authority of this Commission or any other regulatory body with respect to rates, service, accounts, valuations, estimates or determinations of cost, or any matter whatsoever now pending or which may come before this Commission or any other regulatory body and nothing herein shall be construed as an acquiescense by this Commission in any estimate or determination of cost or any valuation of property claimed or asserted.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

LONE STAR GAS COMPANY, DOCKET NO. CP67-111

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued December 22, 1966)

On October 25, 1966, Lone Star Gas Company (Applicant) filed in Docket No. CP67-111 a "budget-type" application pursuant to Section 7(c) of the Natural Gas Act, as implemented by Section 157.7(b) of the Regulations under the Act, for a certificate of public convenience and necessity authorizing the construction during the calendar year 1967 and the operation of certain miscellaneous field facilities to enable Applicant to take into its certificated main pipeline system natural gas which will be purchased from producers thereof, all as more fully set forth in the application in this proceeding.

By the instant application, Applicant seeks authorization to construct and operate various lateral pipelines and related facilities as additions to and extensions of existing jurisdictional facilities to enable it to take into its existing pipeline system natural gas from new reserves discovered in proximity to said system.

The total cost of Applicant's proposed facilities will not exceed a maximum of $1,000,000, with no single project to exceed a cost of $250,000, which costs will be financed from cash on hand.

After due notice, no petition to intervene, notice of intervention or protest has been filed herein.

At a hearing held on December 21, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Lone Star Gas Company, a Texas corporation having its principal place of business in Dallas, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order issued April 11, 1944, in Docket No. G–442 (4 FPC 565).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Applicant should submit within 60 days after the expiration of the authorization granted hereinafter, a statement in compliance with subparagraph (3) of Section 157.7(b) of the Commission's Regulations under the Natural Gas Act.

(6) Public convenience and necessity require that the certificate hereinafter issued and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e), (f) and (g) of Section 157.20 of said Regulations.

(7) The authorization hereinafter granted should be limited to construction during the calendar year 1967 and the total expenditures for facilities to be constructed thereunder should be limited to a maximum of $1,000,000, with no single project to exceed a cost of $250,000.

The Commission orders:

(A) Upon the terms and conditions of this order, a certificate of public convenience and necessity is issued authorizing Applicant, Lone Star Gas Company, to construct during the calendar year 1967, the proposed facilities hereinbefore described, as more fully described in the application in this proceeding, and to operate such facilities only to take natural gas supplies from producers who have received authorization from the Commission to sell natural gas to said Applicant.

(B) Applicant shall submit within 60 days after the expiration of the authorization granted by paragraph (A) above a statement in compliance with subparagraph (3) of Section 157.7(b) of the Commission's Regulations under the Natural Gas Act.

(C) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e), (f) and (g) of Section 157.20 of said Regulations.

(D) The authorization granted in paragraph (A) above is limited to construction during the calendar year 1967, and the total expenditures for facilities to be constructed thereunder are limited to a maximum of $1,000,000, with no single project to exceed a cost of $250,000.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

MIDWESTERN GAS TRANSMISSION COMPANY, DOCKET NOS. RP61-19, RP62-7 (REOPENED) AND KNOXVILLE UTILITIES BOARD, ET AL. v. EAST TENNESSEE NATURAL GAS COMPANY, RP65-4

ORDER GRANTING STAYS

(Issued December 22, 1966)

On November 28, 1966, Midwestern Gas Transmission Company (Midwestern) and East Tennessee Natural Gas Company (East Tennessee) filed separate motions requesting a stay of the rate reductions required by our Opinion Nos. 497 and 497-A and accompanying orders, 36 FPC 61, 599, during the pendency of judicial review proceedings of those opinions and orders. Midwestern also seeks a stay of our requirement that it make refunds of liberalized depreciation tax deductions available from the period October 13, 1964 to January 1, 1967. On December 12, 1966, Knoxville Utilities Board, *et al.* (Knoxville), opposed East Tennessee's motion and on December 14, 1966, the City of Chicago opposed Midwestern's motion.

The substantive issues involved in our original opinion and the supplemental opinion denying applications for rehearing are now in court for judicial decision. The ordered reductions in annual rates and charges and Midwestern's refund are relatively small in amount and the basic question involved is one of first impression before this Commission. Movants have expressed willingness to provide an undertaking to make the necessary refunds to their customers so as to protect their interests in the event that a stay is granted. In view of these exceptional circumstances, we believe that it would be appropriate to grant the requested stay subject to the condition that Midwestern and East Tennessee will file an undertaking and agreement expressly obligating them to make refunds retroactive to January 1, 1967, regardless of whether or not they resume the use of liberalized tax depreciation, if the Commission's Opinion Nos. 497 and 497-A are affirmed by the courts.

There is also pending before us the collateral and peripheral question of whether East Tennessee should be directed to reduce its annual rates by the larger amount proposed in Appendices C and D of Opinion No. 497 or by the smaller amount set forth in its calculations underlying such ordered rate reductions in its filing of October 17, 1966, which has been opposed by Knoxville. In view of our action in granting a stay, we find it unnecessary to decide this narrow question of the proper method of mathematical calculation during the pendency of court review proceedings concerned with the lawfulness of our order requiring a rate reduction designed to reflect the tax savings available through the use of liberalized tax depreciation deductions.

The Commission orders:

(A) Ordering paragraphs (A) and (B) of the order accompanying Opinion No. 497 and ordering paragraph (C) of the order accompanying Opinion No. 497-A are hereby stayed for a period of 30 days after the conclusion of judicial review of the above-identified opinions and orders or until such orders otherwise become final. Provided, however, that such stay shall only become effective if, within 30 days of the date of issuance of this order, Midwestern and East Tennessee shall each execute and file an agreement and undertaking to refund to their respective jurisdictional customers all amounts hereby allowed to be charged in excess of the just and reasonable rates as heretofore or hereafter determined by the Commission and affirmed on judicial review by the court of last resort, which amounts are attributable to gas sold on and after January 1, 1967, with interest thereon at 7 percent per annum from the date of receipt to the date of payment following such affirmance. Midwestern shall also include in its agreement and undertaking an express obligation to pay interest at 7 percent per annum, from January 1, 1967 onwards, on the refunds required by Opinion No. 497 for the period from October 13, 1964 through January 1, 1967.

(B) Final decision is reserved on the question of the proper amount of the annual rate reduction to be made by East Tennessee, and of the rate refund (covering the period from October 13, 1964 to January 1, 1967) to be made by Midwestern, pending the outcome of the petitions for review now awaiting judicial review.

(C) The revised tariff sheets setting forth Midwestern's proposed rate reductions, as required by Opinion Nos. 497 and 497-A and the accompanying orders of July 15 and September 9, 1966, which were filed on October 7, 1966, are hereby approved.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

ANNUAL REPORTS OF ELECTRIC UTILITIES AND LICENSEES—SCHEDULES FOR REPORTING PUMPED STORAGE DATA—OTHER MISCELLANEOUS MODIFICATIONS, DOCKET NO. R-313

ORDER NO. 332

AMENDING ANNUAL REPORTS, FPC FORMS NOS. 1 AND 1-F AND PERMITTING THE USE OF CERTAIN REVISED SCHEDULES IN FORM NO. 1 FOR REPORTING PUMPED STORAGE DATA FOR THE YEAR 1966

(Issued December 22, 1966)*

FPC Form No. 1, prescribed by § 141.1 of the Commission's regulations for electric utilities, licensees and others, is filed by several licensees which operate pumped storage facilities. Such licensees, in order to supply the complete information with respect to their projects required by the form, have submitted the data relating to their pumped storage operations on schedules of their own devising because there is no appropriate provision therefor in the form. Necessary revisions have been suggested but the matter is still under consideration though we anticipate that they will be included, probably among others, in a notice of proposed rulemaking to be issued early next year in order that such, or substantially similar, revisions may be prescribed for inclusion in the annual report for the reporting year 1967.

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*Published in the Federal Register on December 28, 1966 (31 F.R. 16560).

In the meantime, a request has been made on behalf of those licensees and transmitted to us through the Office of Statistical Standards in the Bureau of the Budget that they be permitted to report their pumped storage data in FPC Form No. 1 for the year 1966 in accordance with revised schedules which they have suggested, notwithstanding the schedules have not as yet been prescribed by the Commission for inclusion in the form. Since the submission of the data on the revised schedules, more particularly described below, will inure not only to the benefit of the licensees but, as well, to the Commission and other interested persons and agencies, we are permitting their use for the reporting year 1966 in lieu of the same schedules now included in the form.

It has come to the attention of the Commission that some of the companies submitting Form No. 1 issue not only their annual reports to stockholders but, as well, other regular reports of financial, statistical and operational reviews for the information of stockholders, security analysts and other interested persons. Some of these publications have come into our hands and we have found them to be of considerable value in the exercise of our functions. Accordingly, we are here amending the instructions in Form No. 1 to require the filing not only of any published annual reports to stockholders but also of any such other reports or similar documents which a reporting company may regularly issue for the information of its stockholders and others. Since we are requiring only the submittal of material which the respondents have already prepared, albeit for other purposes, the added burden of submittal will be minimal.

The other amendments here made to FPC Forms Nos. 1 and 1-F are minor editorial revisions in several of the schedules, some of which have been suggested by the respondents which file the forms and others for the purpose of conforming these forms with similar revisions already prescribed for reporting in the Power System Statements—the Form 12 series.[1]

Finally, we approve the substitution, heretofore made, of a "Verification" for an "Attestation" page in FPC Form No. 1-F and here amend § 141.2 to prescribe and codify that change.

The Commission finds:

(1) The revisions of the several schedule pages of the annual reports, FPC Form No. 1 and 1-F, and to § 141.2 are necessary and appropriate to the administration of the Federal Power Act.

(2) Since it is apparent from the foregoing discussion, that the revisions here prescribed are of a minor or clarifying nature and impose no added burden on the respondents, it is unnecessary to comply with the requirements of section 4 of the Administrative Procedure Act with respect to prior notice and opportunity to comment.

The Commission, acting pursuant to the authority granted by the Federal Power Act, as amended, particularly sections 4(a), 304, 309 and 311 thereof

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[1] Order No. 312 in Docket No. R-289, 34 FPC 1490, 30 F.R. 16106.

(41 Stat. 1065; 49 Stat. 839, 855, 858, 859; 16 U.S.C. 797(a), 825c, 825h, 825j), *orders:*

(A) The annual report FPC Form No. 1, prescribed for Classes A and B public utilities, licensees and others by § 141.1, Part 141, Subchapter D, Chapter I, Title 18 of the Code of Federal Regulations, is amended, effective for the reporting year 1966 and thereafter, as follows:

1. General Instruction No. 14 is revised to read as follows:

14. In addition to filing this form, the respondent shall also file with the Commission, immediately upon publication, five copies of its latest annual report and, immediately upon publication, five copies of any regular financial, statistical, or operational reviews or reports that a company may prepare for distribution to stockholders, bondholders, other security holders, security analysts, prospective stockholders, or any other interested parties. If such reports are not prepared, that fact should be stated below:

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2. The schedule (page 228) "Investment Tax Credits Generated and Utilized" is revised to read as set out in *Attachment A** hereto.

3. The second sentence of instruction paragraph 2 of the schedule (page 412) "Sales for Resale (Account 447)" is revised to read as follows:

For *each sale* designate statistical classification in column (b) thus: FP. for firm power supplying total system requirements of customer or total requirements at a specific point of delivery; FP(C), for firm power supplying total system requirements of customer or total requirements at a specific point of delivery with credit allowed customer for available standby; FP(P), for firm power supplementing customer's own generation or other purchases; DP, for dump power; O, for other.

4. In instruction paragraph 1. of the schedule (page 432) "Steam Electric Generating Plant Statistics (Large Plants)", delete "10,000 kw" and insert in lieu thereof "25,000 kw".

5. In instruction paragraph 1. of the schedule (page 433a) "Hydro-electric Generating Plant Statistics (Large Plants)," delete "2,500 kw" and insert in lieu thereof "10,000 kw".

6. In instruction paragraph 1. of the schedule (page 434) "Generating Plant Statistics (Small Plants)", delete "10,000 kw" and "2,500 kw" and insert in lieu thereof "25,000 kw" and "10,000 kw", respectively.

7. In instruction paragraph 1. of the schedule (page 436) "Steam-Electric Generating Plants". delete "10,000 kw" and insert in lieu thereof "25,000 kw".

8. In instruction paragraph 1. of the schedule (page 438) "Hydro-electric Generating Plants", delete "2,000 kw" and insert in lieu thereof "10,000 kw".

(B) Part 141, Subchapter D, Chapter I, Title 18 of the Code of Federal Regulations, is amended as follows:

1. In § 141.2, paragraph (c) is amended by deleting the last item, "Verification", in the list of schedules there set out and inserting, in lieu thereof, the item "Attestation".

(Secs. 4(a), 304, 309, 311, 41 Stat. 1065, 49 Stat. 839, 855, 858, 859; 16 U.S.C. 797(a), 825c, 825h, 825j.)

(C) The annual report FPC Form No. 1-F prescribed for Classes C and D public utilities and licensees by the said § 141.2 is amended, effective for the reporting year 1966 and thereafter, as follows:

1. The schedule (page 9) "Investment Tax Credits Generated and Utilized" is revised to read as set out in *Attachment B** hereto.

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*Omitted in printing.

(D) Licensees, required to submit FPC Form No. 1, which operate pumped storage facilities may submit, for the reporting year 1966, their pumped storage data on the following entitled schedule pages:

Electric Plant In Service (Continued), page 401,
Accumulated Provisions for Depreciation of Electric Plant, page 408,
Electric Operation and Maintenance Expenses (Continued), pages 418, 419, 419a, and 420,
Depreciation and Amortization of Electric Plant, page 429,
Electric Energy Account, page 431,
Pumped Storage Generating Plant Statistics (Large Plants), pages 433c and 433d,
Generating Plant Statistics (Small Plants), page 434,
Pumped Storage Generating Plants, pages 439a and 439b,

appended hereto in *Attachment C** (pages 1 through 13).

(E) The amendments here made to the Commission's regulations and to FPC Form Nos. 1 and 1–F and the permission granted by ordering paragraph (D) shall be effective December 31, 1966.

(F) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

UNITED GAS PIPE LINE COMPANY, DOCKET NO. CP67–113

FINDINGS AND ORDER AFTER STATUTORY HEARING PERMITTING AND APPROVING ABANDONMENT

(Issued December 22, 1966)

On October 27, 1966, United Gas Pipe Line Company (Applicant) filed in Docket No. CP67–113 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval for the abandonment and removal of certain natural gas transmission facilities, all as more fully set forth in the application.

Applicant seeks to abandon and remove facilities originally installed to service Humble Pipe Line Company at its Gwenville Trunk Line Pump Station which facilities include a positive meter station and appurtenant equipment, all being located in Jefferson Davis County, Mississippi.

Applicant states that by letter agreement dated August 31, 1966, the parties agreed to the cancellation of their contract dated October 11, 1963, under which deliveries of gas had been made.

After due notice, no petition to intervene, notice of intervention, or protest to the granting of the application has been filed.

At a hearing held on December 15, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought, and upon consideration of the record,

The Commission finds:

(1) Applicant, United Gas Pipe Line Company, a Delaware corporation having its principal place of business in Shreveport, Louisiana, is a "natural-gas

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*Omitted in printing.

company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order issued November 10, 1942, in Docket No. G-232 (3 FPC 863).

(2) The facilities proposed to be abandoned, as hereinbefore described and as more fully described in the application herein, are used in the transportation of natural gas in interstate commerce subject to the requirements of Subsection (b) of Section 7 of the Natural Gas Act.

(3) The proposed abandonment of the aforesaid facilities is permitted by the public convenience and necessity and approval thereof should be granted as hereinafter ordered.

The Commission orders:

(A) Permission for and approval of the abandonment of the facilities hereinbefore described, as more fully described in the application in this proceeding, are granted to Applicant, United Gas Pipe Line Company.

(B) Applicant shall advise the Commission of the date of abandonment of the facilities as authorized in paragraph (A) above within 10 days of such abandonment.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

PERRY R. BASS (OPERATOR), ET AL., DOCKET NO. RI66-188

ORDER DENYING REHEARING AND RECONSIDERATION

(Issued December 23, 1966)

By order issued December 3, 1965, in the above-entitled proceeding the Commission suspended for one day a proposed increased rate of 13.19¢ per Mcf[1] designated as Supplement No. 2 to Perry R. Bass (Operator), *et al.*, FPC Gas Rate Schedule No. 1, relating to sales of gas to El Paso Natural Gas Company (El Paso) from the Brown-Bassett Field, Terrell County, Texas. The proposed rate was suspended because the area rate ceiling applicable to this sale had not yet been determined in accordance with the provisions of Opinion Nos. 468 and 468-A, 34 FPC 159, 1068. Subsequent to the suspension order Bass filed a quality statement for the subject sale reflecting an applicable area rate of 14.25¢ per Mcf which was accepted by the Commission.

After the acceptance of Bass' quality statement the Commission by order issued November 15, 1966, 36 FPC 852, terminated the proceeding in Docket No. RI66-188 and relieved Bass of any refund obligation in such proceeding because the proposed increased rate of 13.19¢ per Mcf was below the just and reasonable ceiling. It was also pointed out in the order that Bass must file a notice of change in rate if he seeks at sometime in the future to charge and collect a rate in excess of 13.19¢.

Bass on December 1, 1966, filed a motion for rehearing and reconsideration of the November 15 order. Bass claims that the Commission erred in holding the ceiling on the rate he can collect at the present time is 13.19¢ per Mcf and does not in fact reflect the rate increase from 16.0¢ to 16.5¢ per Mcf filed for in Docket No. RI66-188. It is his position that although in his filing he indicated the contractual processing deduction was 3.31¢ per Mcf he should be allowed to collect a rate of 14.25¢ reflecting the 16.5¢ gross rate minus the 2.25¢ per Mcf quality deduction specified in his quality statement.

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[1] 16.5¢ base rate less deduction of 3.31¢ per Mcf by El Paso for the removal of carbon dioxide.

The base rate provided for in Bass' contract is subject to a contractual deduction of El Paso's processing cost which shall not exceed 4.5¢ per Mcf. Both the notice of change filed by Bass and the Commission's suspension order made it clear that the base rate increase from 16¢ to 16.5¢ per Mcf was subject at that time to a processing cost of 3.31¢. The proposed net increased rate was thus 13.19¢ per Mcf. This is the rate which the November 15 order allowed to become effective without refund obligation. The acceptance of the Bass quality statement reflecting a lower processing cost does not and cannot change the status of the filing upon which Bass' rate must be predicated, though it did remove the reason for the suspension. It may well be that Bass under his contract is now in a position to file for a higher net effective rate than the one involved in Docket No. RI66-188, and our action does not preclude him from so doing. But obviously until such a filing is made Bass cannot collect more than his filed rate and when such a filing is made we can consider any questions which might then be raised as to Bass' contractual authority to seek any such increase. Bass' motion should therefore be denied.

The Commission orders:

The motion for rehearing and reconsideration filed herein by Bass on December 1, 1966, is denied.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

GREAT LAKES GAS TRANSMISSION COMPANY, ET AL., DOCKET NO. CP66-110, ET AL.

ORDER REMANDING PROCEEDING TO PRESIDING EXAMINER

(Issued December 23, 1966)

On June 23, 1966, the formal hearing in this proceeding was concluded; final briefs were submitted to the Presiding Examiner on September 12, 1966, following the Commission's order of August 5, 1966, 36 FPC 379, denying a motion to omit the intermediate decision procedure. On September 13, 1966, the Presiding Examiner certified the proceeding to the Commission for its consideration of the question of the future disposition of the proceeding in view of a report that the Canadian Government had refused to grant approval to the Canadian projects upon which the applications herein were based. The Examiner also directed that the parties show cause why the pending applications should not be dismissed without prejudice or make other recommendations which they consider appropriate to the Commission. In accordance with the Examiner's direction, responses were filed by the applicants together with answers by other parties to the case. Great Lakes Transmission Company (Great Lakes) submitted a filing on October 6, 1966, which stated that "the Canadian Government has now approved the National Energy Board's issuance of a certificate of public convenience and necessity together with the related export and import licenses in connection with the Great Lakes Project." As a result of that response, the Commission, on October 13, 1966, directed that Great Lakes submit as a formal filing, in addition to any licenses that may have issued, copies of the agreements and undertakings referred to by Great Lakes in its response, along with "all other documents submitted by your clients to the Canadian Government and the National Energy Board which formed the basis for the agreements and undertakings."

On November 3, 1966, Great Lakes and its associates[1] submitted a further supplement in response to the Commission's order incorporating certain material submitted to the Canadian Government and statements of members of that Government. By letter of November 14, 1966, the Secretary of this Commission sought additional documents not yet submitted and on December 2, 1966, Great Lakes submitted further material which reflected all of the correspondence not previously filed with the Commission which was submitted by Trans-Canada or Great Lakes to or received from the Canadian Government and the National Energy Board following the Canadian Government's initial action refusing to approve issuance of the certificate orders and licenses applied for by Trans-Canada in connection with the Great Lakes project.

Great Lakes contends, however, that the material submitted other than that incorporated in its November 3, 1966 response cannot properly be considered by the Commission in its further evaluation of its application. Great Lakes also requested that the Commission remand the proceeding to the Examiner with directions to resume his consideration of the existing record and to issue a prompt decision thereon. Responses to this request were submitted by various parties to the proceeding: some support the Great Lakes' request, others argue that in view of material changes in the situation that the record must be reopened, and still others contend that the changes are so major that the Great Lakes' application should be dismissed.

The initial reason why the Examiner certified the proceeding to the Commission—the fact that the Canadian Government had apparently mooted the Great Lakes' application by denying the appropriate authorizations required from that Government—now appears to have been removed by the subsequent action by the Canadian Government. However, it seems clear that a factual issue is presented as to whether any changes in Great Lakes' plans or other material developments have taken place since the close of the record which would render impossible or inappropriate an evaluation of the Great Lakes' or competing proposals on the basis of the existing record. We believe the Examiner who is familiar with the existing record and the positions of the parties is in the best position initially to evaluate the materiality and relevancy of any changes which have taken place. In making such evaluation the documents which have been filed with us by Great Lakes in its several pleadings will be material and we shall direct that they be made a part of the record for this purpose.[2]

Notwithstanding paragraph (F) of our order of February 23, 1966, consolidating the applications in this proceeding for hearing, we are of the opinion that, in view of the circumstances detailed above, any modification or supplement of the application or change in facts as the Examiner may determine exists which requires further proceedings should not be grounds for dismissal of the applications herein. However, to the extent that any such changes may exist the Examiner should consider to what extent other parties to these proceedings should be given an opportunity to modify their positions, or to present additional evidence, and to what extent further public notice of the application or applications as modified should be given. In the event he decides that such notice is appropriate, the Secretary of the Commission is hereby authorized to issue such notice as the Examiner may submit to him.

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[1] Trans-Canada Pipe Lines Limited (Trans-Canada), Michigan Wisconsin Pipe Line Company, Michigan Consolidated Gas Company.

[2] If the Examiner subsequently determines that the record should be reopened, the appropriateness of the documents as part of such reopened record and for use in deciding the case on the merits can be decided in the usual manner.

The Commission orders:

(A) Great Lakes' submissions to the Commission of November 3, 1966 and December 2, 1966 are made a part of the record for the further consideration of the Examiner as detailed herein.

(B) The proceeding is remanded to the Examiner for his further consideration.

OPINION NO. 510

PANHANDLE EASTERN PIPE LINE COMPANY, DOCKET NO. CP66-50

OPINION AND ORDER ISSUING CERTIFICATE AND DIRECTING SALE OF GAS

(Issued December 23, 1966) *

Syllabus

1. Deficiencies of unsatisfactory record cannot be permitted to frustrate Commission in arriving at a decision in conformity with law and Commission policy. P. 1109.
2. Commission policy favoring service to industrial customers by local distributors is well established. P. 1109.
3. In considering whether order requiring delivery of interruptible gas to Fulton "would impair [Panhandle's] ability to render adequate service" to Harbison-Walker, Commission notes precedent establishes that Panhandle's industrial customer is entitled to no preference against interruption over pipeline's I-2 customers, including those subsequently connected—it also establishes that "impairment" as referred to in Section 7(a) must be significant and substantial. P. 1111.
4. It has not been shown that a significant impairment of service to Harbison-Walker would result from this order [*supra*, 3]. P. 1111.
5. Pipeline must be authorized or ordered by Commission to interconnect and make deliveries to distributor using new facilities—policy is to refuse issuance of such order if construction of proposed facilities is not economically feasible. P. 1112.
6. Panhandle's tariff obligates it to offer available supplies of interruptible gas to its industrial and retail customers on an equal basis. P. 1112.
7. In event existing facilities cannot supply all gas needed by Panhandle's customers on any given day, the two interruptible customers [Porter and one served directly by Panhandle] shall receive gas on proportional basis. P. 1113.
8. In a proceeding arising under Section 7 of the Natural Gas Act, Commission *grants* Panhandle's certificate application *in part; orders* increased deliveries to a distributor-customer on an interruptible basis and *denies* motion for oral argument.

Raymond N. Shibley, William J. LeBuhn and *G. R. Redding* for Panhandle Eastern Pipe Line Company.

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*Initial decision appears on p. 1115. Amended by Opinion No. 510-A and order issued February 14, 1967, 37 FPC 314. Affirmed, *Panhandle Eastern Pipe Line Company* v. *F.P.C.*, 386 F. 2d 607 (CA3-1967).

Charles F. Wheatley and *W. C. Whitlow* for the City of Fulton, Missouri.

William J. Grove, J. A. Drabek and *Philip R. Ehrenkranz* for the H. K. Porter Company, Inc.

Russell B. Mamone for the Staff of the Federal Power Commission.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

CARVER, *Commissioner:*

This is a proceeding pursuant to Section 7 of the Natural Gas Act on competing applications by Panhandle Eastern Pipe Line Company (Panhandle) and the City of Fulton, Missouri (Fulton) for such authorizations and orders from the Commission as would be necessary to permit one of the applicants to render service to an industrial customer, H. K. Porter Company, Inc. (Porter) at Fulton, Missouri.

The Applications

Panhandle seeks a certificate of public convenience and necessity for transportation of up to 3,000 Mcf of natural gas per day to fulfill a contract of sale it has with H. K. Porter, Inc., a brick manufacturing company, for the delivery of up to 3,000 Mcf per day of gas on an interruptible basis, together with authorization to construct the facilities necessary to render this service, including 14.1 miles of looping on its existing Fulton lateral, plus 1.25 miles of line to connect the Porter plant to the lateral.

The City of Fulton, having gas distribution responsibility within its corporate limits, makes what amounts to a competitive application to render the service Porter needs.

Although the filings and proceedings are not straightforward, Fulton's position is that Panhandle's application be denied, and that instead Panhandle be ordered to deliver to Fulton and increased volume of gas to permit Fulton to render service to Porter.

To conform its position with the proviso of Section 7(a), Fulton suggests that the Commission order Panhandle, not directly to install increased capacity, but to "restore" the lateral serving Fulton to its "original" capacity, or, at its option, to loop the lateral.

In the event we do not order Panhandle directly or indirectly to provide the capacity to provide Fulton the volume necessary to serve Porter, Fulton is willing to build a new lateral over a right-of-way to be acquired.

The Examiner's Decision

By decision issued June 21, 1966, Presiding Examiner Harry C. Shriver recommended the grant of Panhandle's application. He found that the capacity of the existing lateral was inadequate to serve the existing customers and the Porter load. His conclusion with respect to the proviso of Section 7(a) precluded an order to Panhandle to expand the lateral facilities. Thus he did not order Panhandle to serve Fulton. He found Fulton's proposal to undertake construction of a separate lateral to lack economic feasibility.

Exceptions

Exceptions by Fulton and the Commission staff contend that the Examiner's recommendations contravene Commission precedent favoring the local distributor for service to industrial customers. Fulton and Staff further except to the Examiner's finding that Fulton's proposal to undertake the construction of the new lateral itself was not economically feasible.

Fulton contends additionally that the Examiner erred in failing to find that the existing lateral had an original capacity greater than that at which the line presently operates, and urges that the Commission has authority to require Panhandle to restore the line to such original capacity. Fulton also believes the Commission has power to order Panhandle to loop its existing lateral.

In support of its contention that it should be allowed to render the service, Fulton points out that gas would be delivered to Porter by Fulton at a price 5¢ per Mcf lower than the 40¢ per Mcf in the Panhandle-Porter contract.

Fulton requests oral argument before the Commission on its exceptions.

Panhandle, in its reply to exceptions, supports the Examiner's conclusion, including the finding that the Fulton proposal is not economically feasible. Panhandle agrees with the Examiner that the Commission lacks the authority to order the expansion of Panhandle's facilities. Panhandle also contends that it would not be economically feasible under its existing tariff rates for Panhandle to construct facilities to render service to Fulton to meet Porter's needs. It vigorously urges that Fulton is disentitled to consideration having filed no formal application embodying any of its proposals.

Decision of This Commission

This is a very unsatisfactory record. However, its deficiencies cannot be permitted to frustrate the Commission in arriving at a decision conformable to the law and Commission policy.

Our policy to favor service to industrial customers by local distributors is well established.[1] We think that policy can be applied here, although we confess that in applying it, we are opening the possibility of a further evidentiary hearing which might, on our further consideration, lead to a contrary result.

Briefly, we have determined to issue a certificate of public convenience and necessity to Panhandle to transport gas to *Fulton* sufficient to supply Porter, and to authorize Panhandle to provide the necessary capacity, as discussed hereafter.

Panhandle, we recognize, may refuse to accept such a certificate and authority. If it does, these proceedings will be remanded, also as hereafter provided.

In aid of our decision, effective immediately, Panhandle will be ordered to deliver gas to Fulton to supply Porter on an interruptible basis, up to the limit of Panhandle's present facilities. The basis and authority for this action are also discussed hereafter, particularly with reference to the effect on existing interruptible customers of Panhandle.

As can be seen, we have also determined that Fulton's proposals are entitled to be considered on their merits. This, we believe, is the necessary import of our order of January 28, 1966, wherein we granted Fulton leave to intervene. Fulton's proposals were the subject of a full hearing and oral argument before the Examiner.

Discussion

Having determined to certificate Panhandle for a project other than that requested by it, we turn first to the legal and evidentiary support for this order.

Section 7(a)

Section 7(a) of the Natural Gas Act provides that after notice and opportunity for a hearing the Commission may "direct a natural-gas company to extend or improve its transportation facilities to * * * sell natural gas to, any person or municipality engaged * * * in the local distribution of * * * natural gas to the public, and for such purpose to extend its transportation facilities to communities immediately adjacent to such facilities or to territories served by such natural-gas companies if the Commission finds that no undue burden will be placed upon such natural-gas companies thereby: *Provided*, That the Commission shall have no authority to compel the enlargement of transportation facilities for such purposes, or to compel such natural-gas companies to establish physical connection or sell natural gas when to do so would impair its ability to render adequate service to its customers."

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[1] *Northern Natural Gas Company*, Opinion No. 453, 33 FPC 501 (1965); *Southern Natural Gas Company*, 25 FPC 925 (1961); *Panhandle Eastern Pipe Line Company*, 13 FPC 301 (1954).

Panhandle, as we have noted, argues that it cannot be compelled to sell additional gas from its existing lateral to Fulton because "to do so would impair its ability to render adequate service to its customers"[3] connected to that lateral, specifically on winter peak days.

Fulton's request that Panhandle be ordered to increase this capacity, either by restoring the line to its "original" capacity, or by looping, is based, under one of its theories, on the contention that the existing lateral at one time could accommodate more gas. Fulton contends that Section 7(c) does not inhibit us from ordering a "restoration" of original capacity.

On the "restoration" question, such evidence as there is on the capacity of the line itself, exclusive of valves and fittings, indicates that its safe pressure exceeds five hundred pounds per square inch; the actual design pressure is not shown. However, the valves and fittings originally installed have a design limitation of 500 psig, and at present its actual operating pressure would not be expected to exceed this.

It may be necessary in further proceedings to adduce more evidence on this point. We find it unnecessary at this time to consider whether we may require the valves and fittings to conform with the maximum pressure potential of the original pipe installation, or to determine whether or by how much such action would produce additional capacity.

One reason for our disinclination is that the question of whether we may order looping is likewise reserved for possible further proceedings. The record does not contain enough for us even to discuss this question—Panhandle's lateral line policy and the discriminatory implications of a failure to loop for Fulton's benefit in the circumstances are issues the Examiner may, if the remand provisions of this decision become operative, be required to consider.

Panhandle, we reiterate, now has the option—it may accept the proffered authority to serve Fulton. We would not expect, in such circumstances, that the method of achieving such capacity would present any particular problem.

If Panhandle declines the certificate, the further proceedings which will be required can yield a record on capacity, looping, lateral line policy, and related matters, to enable a resolution of all legal and policy questions.

The Interim Order

Section 7(a) is also applicable to the temporary action we have ordered, and it is necessary to examine whether the record and the law support that action.

Our order that Panhandle serve Fulton with gas for the Porter plant, in the face of conceded capacity limitations of the lateral, compels discussion of another unsatisfactory aspect of the record before us.

The existing lateral now serves, besides the City of Fulton and the Missouri Power and Light Company at Auxvasse, another industrial refractory, Harbison-Walker. Harbison-Walker was one of the customers that the lateral was constructed to serve. (Panhandle also sought to serve retail customers in the Fulton area through a subsidiary distributor, but authorization therefor was not obtained.) Harbison-Walker receives service under Panhandle's standard industrial interruptible sales contract.

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[3] Section 7(a).

The problem presented to us by the proviso of Section 7(a), revolves around whether issuance of our proposed order to deliver interruptible gas to Fulton "would impair [Panhandle's] ability to render adequate service" to Harbison-Walker.

Precedent establishes that Harbison-Walker is entitled to no preference against interruption over Panhandle's I-2 customers, including those subsequently connected.[3] Precedent also establishes that the "impairment" referred to must be significant and substantial.[4]

Whether in the situation of a coincidence of peak load requirements of Porter, Harbison-Walker and the other customers of the lateral, interruptions would be suffered in winter seems not open to question—they would. But these interruptions would be infrequent, partial, and of short duration, if the available history is a guide to the future.

Whether such interruptions would constitute significant impairment, remembering that Harbison-Walker has no contract or tariff protection against interruptions, ideally can be determined only by an examination of the situation of Harbison-Walker, which company is not before us.

The amount of gas taken by the City of Fulton each day from January 1, 1958, through January 31, 1966, is of record (Exhibits 45-51). So is the historical level of takes by Harbison-Walker and the Missouri Power and Light for its Auxvasse deliveries. Based on 1965 usage, Staff's brief argues (page 15) that if Porter were to be served by Fulton, only six days of curtailment in the next year could be predicted for Porter, and only one day of curtailment would exceed 25%. Staff's extrapolation assumes full utilization of the existing capacity of the lateral (11,400 Mcf daily) with existing customers being accorded the full present service, and further assumes a coincidence of peak requirements of all customers served by the lateral, including Porter. This assumed coincidence of customer peaks on the lateral is of course somewhat unlikely. Interruptions would be proportionately reduced as coincidence of peak diminished. Under this order, of course, such deprivation as would be experienced would be shared equally by all of the interruptible customers.[5]

Adjustments to give consideration to the future growth of Fulton, and the other customers' requirements, to the use of the addition of 400 Mcf to Fulton's contract demand for its new electric peaking facility, and to Fulton's system losses which are 5% of the gas delivered to it, point in the direction of more interruptions. Nevertheless, upon such record as we have, we find that it has not been shown that a significant impairment of service to Harbison-Walker would result from this order.

A supply of gas for Porter on an interim basis is of overriding importance at this stage of the proceedings. Resolution of the other issues herein may take many months. Under these circumstances, issuance of this order should not be delayed.

Economic Feasibility

Our interim order not offending the proviso of Section 7(a), and Panhandle having the option to protect its rights as to the impact of the same proviso on a permanent certificate, we must now consider the economic feasibility of the various proposals.

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[3] *Panhandle Eastern Pipe Line Company*, 13 FPC 301 (1954), aff'd 232 F. 2d 467 (CA3-1956), cert. den. 352 U.S. 891.

[4] *The Manufacturers Light and Heat Co.* v. *F.P.C.*, 204 F. 2d 404 (CA3-1953). *Granite City Steel Company* v. *F.P.C.*, 320 F. 2d 711 (CADC-1963).

[5] The nature of a brickyard's operations (such as that of Harbison-Walker and Porter) is such that damage does not occur as a result of temporary interruption of gas service, although loss of production may occur if standby fuel facilities are not available.

The policy of this Commission which protects the right of the local distributor to render sales to industrial customers within its area of service is conditional—it does not apply if economic considerations preclude it.

Panhandle's cost evidence purports to show that its General Service tariff rates, as applied to service to Fulton for Porter, would not yield a fair rate of return on the cost of expanding its facilities. Particularly, it offered cost evidence to show that looping the lateral would not be economically feasible, assuming its present contract demand rate of 35¢ per Mcf, or under the I-2 (interruptible) rate.

Panhandle, of course, put in a case to establish the economic feasibility of its proposal to serve Porter directly. Although we may not conclude from this that the 35¢ rate to Fulton would *not* be economically feasible, neither in ordinary circumstances would we use such evidence to show that it *would* be economically feasible.

Because we are faced with the necessity of making a finding of economic feasibility to support our proffered option to Panhandle to accept a certificate and authority to serve Fulton for Porter, we must do so in this case. In doing so, we emphasize that Panhandle's option simplifies the matter for us—and we point out that enough questions are raised in Panhandle's own case on matters such as reallocation of the cost of looping among all customers, adjustment of the purchased cost of gas to take into the account the cost of Panhandle's production on its own account, and the like, to support, from the standpoint of the question of economic feasibility, an acceptance by Panhandle of the certificate and authority we have proffered.

Panhandle service directly to Porter as proposed by Panhandle was found by the Examiner to be economically feasible. Economic feasibility of construction by Fulton was not persuasive on the Examiner. We do not disagree with either view, at this time.

Fulton, of course, is not a natural-gas company within the contemplation of the Natural Gas Act, and does not require authorization from this Commission to construct the proposed facilities. But Panhandle would have to be ordered or authorized by this Commission to interconnect and to make deliveries to Fulton using the new facilities. The policy of the Commission is to refuse issuance of such orders if construction of the facilities to render the proposed service would not be economically feasible.

Fulton's Gas Supply

Under its existing contract with Panhandle, Fulton might not have contractual rights sufficient to render the needed service to Porter, in addition to serving other Fulton customers. This would be particularly true in the summer months, when the contract demand is low.

Fulton undertook to show that it could make deliveries to Porter out of its contract demand requirements from Panhandle, but alternatively requested that a supply be made available, on an interruptible basis.

We order such additional supply. Panhandle's tariff (see *Panhandle Eastern Pipe Line Company*, 13 FPC 301, 323-5[6], obligates it to offer available supplies of interruptible gas to its industrial and retail customers on an equal basis. Panhandle can hardly be heard to deny the existence of an available supply of gas, since it seeks authority in these proceedings to supply the very amount.

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[6] Affirmed *Panhandle Eastern Pipe Line Company* v. *F.P.C.*, 232 F. 2d 467 (CA3-1956).

Pursuant to the authority of Section 7 of the Act, we order Panhandle to transport and sell on an interruptible basis under its I-2 tariff, up to 2,500 Mcf daily until October 1, 1968, and up to 3,000 Mcf daily thereafter until further order of this Commission. This shall be in addition to Fulton's existing contract demand entitlements.

In the event the existing facilities cannot supply all the gas needed by its customers on any given day, the two interruptible customers, Porter and the one served directly by Panhandle, shall receive gas on a proportional basis.

Panhandle's Option

The Commission recognizes that Panhandle may feel aggrieved at being confronted with an option to accept a certificate for what amounts to competitive service, or to undergo a full remand and expose itself to the possibility that on a different and better record other and possibly more onerous conditions may attach. Despite the admittedly unsatisfactory record in this case, the Commission's policy favoring local distributors is sound. It may well be that pipelines, including Panhandle, will recognize the long-range benefits to the industry from such a policy and make special efforts to cooperate with local distributors in implementing it.

Oral Argument Denied

We believe the benefit to be conferred by oral argument is not proportionate to the detriment attendant upon delay in the issuance of this order. Accordingly, Fulton's motion for oral argument will be denied.

The Commission finds:

(1) The Panhandle Eastern Pipe Line Company is engaged in the transportation of natural gas in interstate commerce, and in the sale in interstate commerce of natural gas for resale, and is a "natural-gas company" subject to the Natural Gas Act.

(2) The City of Fulton, a customer of the Panhandle Eastern Pipe Line Company, is a municipality in the State of Missouri authorized to engage in the local distribution of natural gas to the public.

(3) The H. K. Porter Company, Inc., brick plant on the outskirts of the City of Fulton, Missouri, has estimated peak day requirements for the first three years of 2,073 Mcf, 2,127 Mcf, and 2,451 Mcf per day, respectively.

(4) Under the circumstances herein, the City of Fulton is unable to supply the peak day requirements of H. K. Porter Company, Inc., from its existing firm contract demand because such requirements are in excess of Fulton's total contract demand for several summer months of the year.

(5) The sale and delivery of up to 3,000 Mcf daily of interruptible natural gas by the Panhandle Eastern Pipe Line Company to the City of Fulton for resale to H. K. Porter Company, Inc., in accordance with the terms and conditions of this order, are and will be necessary and desirable in the public interest.

(6) The Panhandle Eastern Pipe Line Company's existing Fulton lateral possesses insufficient capacity as presently operated to meet the coincident peak day requirements of existing customers served by that lateral in addition to the requested allocation of 3,000 Mcf daily to the City of Fulton for resale to the H. K. Porter Company, Inc.

(7) The public convenience and necessity require the construction by Panhandle Eastern Pipe Line Company of the facilities involved in increasing the existing capacity of the Fulton lateral, all as more particularly set out in Panhandle Eastern Pipe Line Company's application and the exhibits in this proceeding, but not including the proposed 1.25 miles of 4-inch line to connect

the Fulton lateral with the plant of H. K. Porter Company, Inc., or any other facilities proposed in connection with the said 4-inch line.

(8) The ability of Panhandle Eastern Pipe Line Company to render service to its existing customers will not be impaired by sale and delivery by said company to the City of Fulton of up to 3,000 Mcf of natural gas daily on an interruptible basis in accordance with the terms and conditions of this order.

(9) The proposed sale by the City of Fulton to H. K. Porter Company, Inc., of up to 3,000 Mcf of natural gas daily to be supplied out of the City's present contract demand and from an additional amount up to 3,000 Mcf daily to be supplied the City on an interruptible basis is economically feasible.

(10) The construction of facilities and sale of gas by Panhandle Eastern Pipe Line Company to the City of Fulton, as herein authorized, is economically feasible.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to the Panhandle Eastern Pipe Line Company authorizing the construction of the facilities involved in looping the existing Fulton lateral for a distance of approximately 14.1 miles, all as more particularly set out in the application of Panhandle Eastern Pipe Line Company and the exhibits in this proceeding, but not including the proposed 1.25 miles of 4-inch line to connect the Fulton lateral with the plant of H. K. Porter Company, Inc., and not including any other facilities proposed in connection with the said 4-inch line for delivery of gas therefrom.

(B) Panhandle Eastern Pipe Line Company shall signify its acceptance of the certificate issued pursuant to paragraph (A) hereof within 30 days of the date of this order, or, if it fails to do so, said certificate shall no longer be valid.

(C) The facilities authorized by paragraph (A) hereof shall be constructed and placed in actual operation as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within one year from the date on which this order issues.

(D) Panhandle Eastern Pipe Line Company shall sell and deliver up to 2,500 Mcf of natural gas per day to the City of Fulton on an interruptible basis in addition to the present contract demand of the City of Fulton, until October 1, 1968, or until earlier Commission order to the contrary, and shall sell and deliver up to 3,000 Mcf of natural gas per day to the City of Fulton on an interruptible basis in addition to the present contract demand of the City of Fulton, from October 1, 1968, until whenever such sale and delivery shall be terminated or reduced by later order of this Commission, and a certificate of public convenience and necessity is hereby issued to Panhandle Eastern Pipe Line Company for the transportation and sale of such gas.

(E) In the event Panhandle Eastern Pipe Line Company shall not accept the certificate issued by paragraph (A) above, the proceeding shall be remanded for further hearing in accordance with this opinion and order before the Presiding Examiner or such other as the Chief Examiner of the Commission shall appoint to hear the same.

(F) Unless a different time is fixed by the Presiding Examiner or other hearing officer designated to conduct the hearing, a pre-hearing conference shall be held on February 14, 1967, at ten o'clock in the forenoon, at the offices of the Commission, 441 G Street, N.W., Washington, D.C.

(G) Unless a different time is fixed by the Presiding Examiner or other hearing officer designated to conduct the hearing, the hearing shall commence at 10 o'clock in the forenoon on March 14, 1967, at the offices of the Commission, 441 G Street, N.W., Washington, D.C.

(H) All proceedings after remand shall be conducted with all possible expedition consonant with due consideration and just disposition of the proceeding.

(I) Except to the extent herein granted, Panhandle Eastern Pipe Line Company's application for a certificate of public convenience and necessity is denied.

(J) The motion of the City of Fulton for oral argument is denied.

INITIAL DECISION

OF THE PRESIDING EXAMINER ON APPLICATION TO TRANSPORT AND SELL GAS AND TO BUILD A LATERAL NEAR FULTON, MISSOURI

(Issued June 21, 1966)

SHRIVER, *Presiding Examiner:* This is a proceeding on an application of a pipeline company to construct a lateral and to sell and transport natural gas to an industrial plant at Fulton, Missouri. The case arises out of an application filed by the Panhandle Eastern Pipe Line Company, with the Commission on August 13, 1965, seeking a certificate of convenience and necessity for the sale and transportation in interstate commerce of up to 3000 Mcf of natural gas per day on an interruptible basis to the H. K. Porter Company, Inc., at Fulton, pursuant to Sections 7(c) and (e) of the Natural Gas Act. The applicant also seeks authorization to construct some 15.3 miles of lateral and related facilities at an estimated cost of approximately $479,000 in connection with the proposed sale.

Following the filing of Panhandle's application the Commission on August 23, 1965 issued its Notice of Application providing that petitions to intervene be filed by September 20, 1965. (30 F.R. 11156). On October 13, 1965, Panhandle filed a supplement to its application in response to a request for additional information made by the Secretary of the Commission on September 22, 1965. On October 29, 1965, the City of Fulton filed a petition to intervene out of time. However, on January 28, 1966, the Commission issued an order, 35 FPC 164, granting Fulton leave to intervene and set February 28, 1966, as the date for hearing. Meanwhile, on February 18, 1966, the H. K. Porter Company, the customer to be served by Panhandle, by reason of its interest, also filed a petition to intervene which was granted on February 25, 1966. Hearings were held on February 28, and March 3, 4, 7, 8, 9, 11, 14, and 15, 1966. Oral arguments were made before the Examiner on April 15, 1966, in lieu of the filing of reply briefs.

Panhandle is a large pipeline company which purchases and produces natural gas in the Texas and Oklahoma panhandle region, and transports it to numerous resale and direct customers, cities, towns, and industrial plants located in Kansas, Missouri, Illinois, Indiana, Michigan, and Ohio. It possesses three large parallel pipelines extending from Liberal, Kansas, into Michigan. It is a natural gas company within the purview of the Act.

The H. K. Porter Company, Inc., (Porter) is located in Pittsburgh, Pennsylvania, and maintains numerous plants throughout the country, a refractories division, and several brick plants in the midwest. The plant now under construction at Fulton, Missouri, will manufacture fireclay refractories primarily from Missouri raw materials (clay). Porter's product lines include pouring pit refractories—sleeves, nozzles, runner brick, and ladle brick, intermediate duty fireclay brick, high heat duty fireclay brick, super duty fireclay brick, and 60 percent and 70 percent alumina brick. Initial production is planned at 40,000 bricks per day with a possible increase in production to 54,000 bricks per day. Porter plans to use some natural gas by July 1, 1966, and to commence operation by August 1, 1966. Its plant is designed so that natural gas will be the sole source of fuel. It plans no standby facilities except electrically heated devices to prevent the water pipes from freezing. The primary use to be made of the gas is to provide heat for the drying and burning of brick. The plant expects to employ from 110 to 130 persons.

On June 1, 1965, Porter entered into a contract with Panhandle extending from October 1, 1965, for a period of five years, pursuant to which Panhandle agreed to supply the entire gas requirements of Porter's plant at Fulton on an interruptible basis up to 3000 Mcf per day and at a price of 40 cents per Mcf. At the hearing, Porter appeared in support of Panhandle's application. Porter's witness testified that the company's peak day requirements for the first three years were estimated at 2,073,160 cf, 2,127,160 cf, and 2,451,160 cf, respectively, and that the annual requirements would be 412,084,800 cf, 426,880,800 cf, and 515,656,800 cf. (Ex. 26, Tr. 84, 85)

The City of Fulton—renowned for Churchill's Iron Curtain Speech delivered at Westminster College in 1946—is located in the north-central part of Missouri, some 22 miles south of Panhandle's main pipeline. It is the County Seat of Callaway County. The city had a population of 10,052 in 1950 and 11,131 in 1960. Its Mayor testified at the hearing that the city's population in 1965 was 12,500. Fulton is the site not only of Westminster College, but of William Woods College, the Missouri School for the Deaf, and the State Mental Hospital No. 1. The city has its own gas and electric systems. It supplies gas to all users within the city except for the Harbison-Walker Refractories, which is served directly by Panhandle. The service to Harbison-Walker was initiated by means of a 6-inch lateral constructed by Panhandle in 1931. Service was extended by Panhandle to the City of Fulton from the same lateral in 1936. Both of these customers of Panhandle as well as another, namely, Auxvasse, continue to be served from this lateral. Auxvasse is located near the existing lateral and between Panhandle's main pipeline and the City of Fulton.[1] Panhandle is Fulton's sole supplier of natural gas. In 1965, the City purchased 782,191 Mcf and its peak day actual take was 6615 Mcf. (Ex. 45, 61) The contract between Panhandle and Porter provides that Panhandle "shall have the right to curtail or interrupt all or any part of the deliveries of gas to the buyer" (Porter) "when such gas is needed to meet the requirements of Panhandle's other customers." (Exh. 4, par. 6(a))

In addition to the requested authorization to transport gas in interstate commerce in order to serve Porter, Panhandle proposes to loop its existing lateral with 14.1 miles of 8-inch pipe and to install 1.25 miles of 4-inch pipe to connect the present lateral with Porter's plant.[2] Panhandle says that the new facilities are necessary because the present lateral is old and has insufficient capacity to carry the increased load required by the sale to Porter. Panhandle also says that the looping would enable it to serve Porter but, in addition, would be beneficial to its existing customers. This is borne out by the evidence.

The selection by Porter of a site for its plant near Fulton was dictated by several considerations such as transportation, water, and electricity, and more particularly, the supply of raw material. Negotiations and conferences accordingly were held by representatives of Porter with the city officials of Fulton and officials of Panhandle, and it was initially contemplated by the parties that Porter would secure gas directly from Panhandle. (Tr. 336, 344) Porter entered into a contract with Panhandle to this end on June 1, 1965. (Exh. 4) In a letter to Panhandle dated July 7, 1965, Fulton's mayor urged that the requisite authorization for the sale be applied for as soon as possible. (Exh. 31, Tr. 334) Panhandle's abbreviated application was filed with the Commission shortly thereafter, on August 15, 1965. At the hearing, however, it was contended by Fulton that the city was under a misapprehension as to its rights until October 28, 1965. Its petition to intervene was filed on the following day.[3]

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[1] Exh. 2, reproduced as Appendix I hereto.

[2] Exh. 3, reproduced as Appendix II hereto.

In its petition to intervene, the City of Fulton requests "an order of the Commission under Section 7(a) of the Natural Gas Act directing Panhandle to sell to the city up to 3000 Mcf of gas on an interruptible basis under Rate Schedule I–2 for resale by the city to the H. K. Porter Co. *through the existing physical connection of Panhandle's transportation facilities with the city's distribution system.*" At the same time, Fulton alleges that it "has no objection to the stated plans of Panhandle to make improvements to its existing Fulton lateral to serve the increased loads through the construction of 14.1 miles of 8-inch loop, provided that the Commission finds this to be necessary and in the public interest," and, further, that it "believes that it would be more in the public interest for the city to serve the H. K. Porter Co. * * * than for the company to be served by a direct industrial sale," *requiring new construction.* Fulton also alleges that, "Panhandle has not obtained a franchise or authorization from the city to serve the proposed customer *soon to be within the city's boundaries.*"

Fulton filed no application with its petition but requests, as already indicated, an order from the Commission allocating additional gas under Section 7(a) of the Act so as to enable it to serve Porter through its municipal distribution system. In replying on November 26, 1965, to Panhandle's objections to Fulton's petition to intervene, Fulton says that it incorporates by reference Panhandle's application except that it seeks to serve Porter directly rather than that Panhandle be permitted to do so.

Fulton claims at the outset that Panhandle's application should be denied for the reason that Panhandle failed "to acquire a franchise from the city permitting it to construct facilities within the city and to sell to the Porter Company", citing Sections 157.14(a) and 157.7 of the Commission's Regulations. Counsel for Fulton also argues that under the circumstances and under Missouri law, Panhandle must obtain a franchise (Section 71.520, Revised Statutes of Missouri), and indeed contended in oral argument that if the Commission certificated the sale as proposed in Panhandle's application that it would be within the authority of the City of Fulton to thwart it by failing to issue a permit. These arguments are without foundation and are rejected.

It is clear from the record that when Panhandle filed its application the Porter plant site was outside the boundaries of Fulton. This is admitted in Fulton's petition to intervene and is borne out by the facts. After Fulton's petition was filed on October 29, 1965, the city immediately took steps to extend its boundaries. On November 4, 1965, Fulton enacted Ordinance No. 291 looking to annexation of the site (Exh. 41). This ordinance provided, among other things, that an election be held[4], and upon the fulfillment of certain other conditions, that the annexation become effective as soon thereafter as permitted by law. The sole purpose of this ordinance appears to have been to bring the Porter plant within Fulton's service area. But, since the Porter plant was outside the city limits when Panhandle filed its application, there was no need for Panhandle to secure a franchise in order to comply with the Commission's regulations. Fulton argues that Panhandle has no authority to construct facilities within the city or to sell gas to Porter under Missouri law without a permit from the city (Fulton Br. 11, 74). The Missouri statutes relied on by Fulton (Rev. Stat. 71.520 and 71.530), however, have reference specifically to local companies, incorporated in Missouri. Panhandle does not propose to sell and deliver gas to the citizens of Fulton. Even if the Porter plant is within the city boundary as contended, the record discloses that the city has not acted either to grant or deny authority to Panhandle to install facilities and serve natural gas to inhabitants of Fulton, nor has it taken any action to foreclose the issuance of such a franchise. Panhandle's application cannot be denied on this account.

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[3] Mayor Murphy testified, "We first learned of that (the filing by Panhandle) on October 28, 1965, while on a trip to Washington when Panhandle's application in Docket No. CP66–50 came to our attention." (Tr. 41) On cross-examination he said that he first learned of this when he visited the Commission's Public Reference Room with Counsel and with Fulton's city attorney on the same date (Tr. 328).

[4] An election was held for this purpose on April 5, 1966, after the testimony was taken in this proceeding (Fulton Br., p. 74).

Fulton's contention that the city has the power to interfere with interstate commerce by refusing to grant a franchise for a direct sale is not supported by Missouri law. This is evident from a decision of the Supreme Court of Missouri in, *Missouri ex rel. Panhandle Eastern Pipe Line Company* v. *Public Service Commission of Missouri*, 93 S.W. 2d 675 (1936), and reproduced in Exhibit 8 sponsored by Fulton. There the Court said "So far as this record discloses, the work of relator to effect delivery as aforesaid is an incident to its interstate business as distinguished from the work upon the gas after delivery to effect its proper distribution for consumption by local consumers at retail (or to industrial plants for industrial purposes). Until such time as the natural gas here involved enters the distribution system of the local utility the movement remains interstate." Panhandle is not a local utility but an interstate pipeline company.

It should be remembered in passing that the Harbison-Walker plant, another refractory, is presently served by Panhandle and is located within the City of Fulton. Section 7(h) of the Natural Gas Act grants the right of eminent domain to natural gas companies engaged in the transportation or sale of gas in interstate commerce. This power may be resorted to when satisfactory agreements cannot be reached for the necessary rights-of-way. There is no application or proposal by Panhandle to install facilities or to serve natural gas to the inhabitants of Fulton, hence no application for a franchise was filed by Panhandle. As to the specific tracts of land to be traversed and roads to be crossed for the construction to serve Porter, Panhandle has obtained the necessary rights-of-way and authority.[5] The issue in point of fact, therefore, is rendered moot. Should it be necessary, however, for Panhandle to secure a franchise before rendering service to Porter, application might be made therefor.

Fulton argues further that the issuance of a certificate of convenience and necessity to Panhandle is inhibited by the decision of the Supreme Court in *Panhandle Eastern Pipe Line Company* v. *Michigan Public Service Commission*, 341 U.S. 329 (1951). We don't think so. We think this case is inapposite here. There the issue was whether Panhandle was required to secure a certificate of convenience and necessity from the Michigan Public Service Commission in order to serve the Ford Motor Company which was located within the service area of the Consolidated Gas Company, the local distributor of gas in Detroit. The Lower Court enjoined the Michigan Commission holding that its order was a prohibition of interstate commerce and therefore invalid. On appeal to the Michigan Supreme Court, the State Commission was upheld. The

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[5] Tr. 843; Court order County Court of Callaway, dated October 18, 1965 (Exh. 57).

Federal Power Commission was not involved. The United States Supreme Court affirmed the Michigan Supreme Court holding that there was neither prohibition nor discrimination in the regulation by the State. The action of the State Commission was complementary to the regulation authorized by Congress under the Natural Gas Act.

In the instant case it is anamalous indeed, on the one hand, that Fulton should ask the Commission to order Panhandle to construct its proposed loop facilities, failing which the Commission should order Panhandle to connect its facilities with a partial lateral which Fulton suggests that it will hereafter build[6] so as to enable Fulton to serve Porter, and, on the other hand, that Fulton should deny that the Commission has authority to grant to Panhandle a certificate of convenience and necessity if the City of Fulton refused to issue a franchise.

After the testimony was taken before the Examiner, Fulton's counsel on March 28, 1966, filed a copy of a declaratory judgment of the Circuit Court of the County of Callaway, Missouri, dated March 25, 1966, and on April 15, 1966, filed a copy of an Ordinance of the City of Fulton, No. 315, dated April 7, 1966, in order to establish that the Porter plant was now located within the city limits of Fulton. Official notice is taken of these documents. Notwithstanding, we hold that the Porter plant was outside the city limits of Fulton when Panhandle filed its application, and that even if it is now within the city as contended by Fulton, the Federal Power Commission is authorized to grant a certificate of convenience and necessity to Panhandle to construct the appropriate facilities as may be required to serve Porter.

As already indicated, Fulton asks that the Commission issue an order directing that Panhandle sell the city an additional allotment of gas on an interruptible basis for resale to Porter. The evidence discloses that the capacity of the existing lateral would be inadequate to supply Fulton including its normal three-year load growth, and the proposed load of the Porter plans.[7] Without the construction of a pipeline to Panhandle's mainline or an intercepting lateral, Fulton would be unable to fulfill one of the necessary requisites of an application for an increase in allotment of gas. Panhandle's application is for the construction of facilities, namely a lateral to take care of its proposed sale to Porter. No application is made by Panhandle for an increased sale to Fulton. The issue arises, accordingly, whether it is within the power of the Commission to require Panhandle to construct a lateral to provide any proposed increased service to Fulton.

Section 7(a) of the Act provides that,

> Whenever the Commission, after notice and opportunity for hearing, finds such action necessary or desirable in the public interest, it may by order direct a natural-gas company to extend or improve its transportation facilities * * * Provided, That the Commission shall have no authority to compel the enlargement of transportation facilities for such purpose, * * * when to do so would impair its ability to render adequate service to its customers.

In Panhandle Eastern Pipe Line Company v. *F.P.C.*, 204 F. 2d 675 (CA3–1953), the Court of Appeals reversed the Commission, and in reviewing an order of the Commission which implied that Panhandle had a duty to enlarge its pipeline facilities on its Liberty lateral from 21,000 Mcfd to 30,000 Mcfd, said at page 680:

> In the light of section 7(a) we are compelled to conclude that Congress meant to leave the question whether to employ additional capital in the

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[6] Fulton Br., p. 82.

[7] Staff Br., pp. 14, 50; Fulton Br., pp. 38, 76–77.

enlargement of its pipeline facilities to the unfettered judgment of the stockholders and directors of each gas company involved.

There are to be sure limitations on the application of the case cited. But in the instant case, an enlargement of the existing lateral capacity is necessary in order to serve the Porter load. Accordingly, by reason of this and the other facts of record, there is no warrant for ordering Panhandle to construct new lateral facilities to serve Fulton a G–2 or an I–2 allocation of gas for resale to Porter.

Fulton is uncertain of the type of service desired but in effect says it wants whatever service the Commission will authorize so as to enable it to (1) purchase firm service from Panhandle under its G–2 rate schedule for resale to Porter on a firm basis, or (2) purchase interruptible service from Panhandle under its I–2 rate schedule for resale to Porter on an interruptible basis, or (3) sell interruptible gas to Porter from the city's existing and future G–2 contract demand allotment.

The present contract demand of the City of Fulton is as follows:[8]

	Mcf/d		*Mcf/d*
April	4500	October	4400
May	3400	November	7500
June	1700	December	7500
July	900	January	7500
August	900	February	7500
September	2000	March	7500

Fulton's requested contract demand for 1966–1967, exclusive of gas that might be needed for Porter is:[9]

	Mcf/d		*Mcf/d*
April	4970	October	4400
May	3400	November	7960
June	1700	December	7960
July	1630	January	7960
August	1630	February	7960
September	3000	March	7960

It is apparent from the foregoing that in four complete months of the year Fulton's existing contract demand does not meet the 2073 Mcf/d first year peak day requirements of Porter, assuming a zero load from the city's regular utility business and, further, that in three months of the year the city's 1966–1967 requested contract demand fails to meet the 2127 Mcf/d second year peak day requirements of Porter, assuming a zero load from the city's regular utility business. Although Fulton's Mayor was of the opinion that Porter could be served out of the city's presently available volumes, this is not possible. Using 1965 as a test year, based on the testimony of Panhandle's witness Albertson, Fulton would have been unable to deliver the maximum daily requirements to Porter on 172 days of the year. (Tr. 848). Based on the third-year requirements of Porter and the City of Fulton's 1965 takes and G–2 contract demand, Porter would have been interrupted 225 days annually (considering Porter's peak day use). (Tr. 849). Although the city has a slack in the actual use of its existing contract demand, it is clear that the city cannot serve Porter out of its existing or future contract demand.[10] It must be concluded, therefore, that without an allocation of additional service from Panhandle under Section 7(a) of the Act, Fulton would be unable to provide adequate service to Porter.

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[8] See Exh. 11, Panhandle's contract with Fulton dated September 1, 1964, but entered into as of November 1, 1965.

[9] See Exh. 38.

In its petition to intervene, Fulton asked for I–2 service in order to serve Porter. At the hearing, however, a substantial part of Fulton's evidence was offered in support of G–2 service. Panhandle's application contained no request for authority to construct mainline facilities since a direct interruptible sale is made from mainline capacity allocated to other firm sales, which when not utilized to supply the firm customers, is used to supply interruptible customers. In extremely cold weather, Panhandle must devote all or most of its mainline capacity to firm customers and its interruptible customers are then curtailed.

When Fulton presented its evidence embracing a request for firm service allocation, it was confronted with the fact that Panhandle has no excessive mainline capacity, all its peak day capacity is sold. (Tr. 286, 290.) In the absence of favorable action under Panhandle's application in another proceeding, Docket No. CP66–244, there is no assurance that Panhandle will have an available capacity of gas for the City of Fulton for resale to Porter. Panhandle could hardly be compelled to construct additional mainline capacity in the instant docket, since none is proposed. Although Panhandle is a large pipeline company, it cannot lightly be assumed that unallocated firm peak day capacity exists on its mainline system for additional firm service. It is evident, therefore, that without a showing of additional capacity there is no justification for an allocation of G–2 service to the City of Fulton for resale to Porter.

Mr. Lloyd Mason testified for Porter that its brick business is not seasonal, that some gas—less than one percent—would be used for space heating, that a complete interruption of gas supply would not damage bricks in its manufacturing process, and that Panhandle's gas curtailment history under its I–2 schedule was acceptable to Porter.

Fulton argues that it is economically feasible for Panhandle to sell gas to the city for resale to Porter and claims under an incremental cost study involving the lateral that Panhandle earns $25,593 annually, and under the "roll in" system it earns $234,543 (Exh. 16). Panhandle, on the other hand, claims that the revenues claimed by Fulton relating to the growth in Fulton's utility industry are erroneously allocated to the new facilities and that this follows since a new lateral loop is not required to serve the incremental third-year growth of the city's utility business, excluding the Porter sale. Panhandle also claims that it is erroneous to include any incremental sales to Harbison-Walker, and thus that it would be economically infeasible to install transmission facilities to make the City of Fulton's G–2 sale for resale to Porter. Panhandle further claims that Fulton credits $33,797 of added revenues to the utility's regular business, and that to earn these revenues the city would be required to sell 87,700 Mcf of additional gas over a two-year period, excluding the Porter sale. Panhandle says that the total volumes of gas purchased from Panhandle by Fulton between the years 1960–1965 increased from 741,117 Mcf to 782,191 Mcf, or less than 7,000 Mcf annually. Among other things, Fulton shows a depreciation of $14,900 covering lateral construction cost but this figure contains no depreciation on mainline facilities (using 1968 revenues and operating expenses, Exh. 16). At best, Fulton fails to include a substantial part of Panhandle's cost of providing a G–2 sale to Fulton for resale assuming responsibility in Panhandle for mainline facilities as well as a lateral in order to make the sale.

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[10] Exhibit 61 shows a 54 percent load factor based on 1965 operations of the city, and giving effect to the 90 percent ratchet as appropriate.

As to the volumes of gas, it is evident from the above that Fulton's anticipated increase of some 87,700 Mcf over a two-year period of approximately 43,000 Mcf annually is speculative and is without foundation.

Panhandle's witness Albertson testified that the use of gas per customer in the City of Fulton was not increasing. The actual use by Fulton's customers in 1962 through 1965 was as follows:[11]

	Mcf/customer
1962	168.9
1963	161.3
1964	164.2
1965	168.2
Average	165.7

In its rebuttal, Panhandle offered evidence denying Fulton's contention that it was economically feasible for Panhandle to sell firm gas to Fulton for resale to Porter. Panhandle represented in response to Fulton's Exhibit 16 that its return would be but 0.86 percent for the first year, 0.97 percent for the second year, and 1.66 percent for the third year. The Staff argues that Panhandle's figures are erroneous[12] because of Panhandle's representation of its cost of gas (that coming from various fields and from its own production), the cost of the facilities for a firm sale, and a 48 percent tax return assigned to the incremental operating income. These items need not be discussed in detail. It is sufficient to say after an examination of the evidence adduced by Panhandle and more particularly of Exhibit 56, that its contention of unfeasibility is not convincing. But it does not necessarily follow, however, that Fulton's request for a G–2 allocation of gas should be granted.

The City of Fulton claims that, based on the Porter firm sales and added city sales of 87,000 Mcf in 1968, it is feasible for Fulton to make the firm sale and earn enough revenue to support a bond issue necessary for the construction of 14 miles of pipeline by the city at a future date.[13] In the event that Panhandle built the 14-mile lateral loop there would be no problem of economic feasibility on the part of the city. Fulton claims that this would follow because of the 5.5 cents per Mcf spread between the cost of G–2 gas and the proposed Porter firm contract (Exh. 25). Unfortunately, however, the revenues claimed by Fulton are unreliable, particularly in respect to the Porter sale. Among other things, the proposed contract with Porter is for seven years, while a Panhandle firm service agreement runs for 20 years. In addition, any contract between Porter and the City of Fulton is yet to be negotiated. Fulton's proposed contract with Porter contains a demand charge of $2.00 per month per Mcf, a commodity charge of 27.2 cents, resulting in a 100 percent load factor cost of 33.76 cents per Mcf. The contract level is 2250 Mcf/d. The contract also provides for interruptible gas at 35 cents per Mcf when Porter goes over its 2250 Mcf contract demand. Should Porter curtail its use, relocate, or refuse to renew the proposed contract after seven years, Fulton would have a large contract demand which might take several years to absorb. Fulton's witness Dysart admitted that Fulton's cost of gas could run as high as 39 cents per Mcf. Although the city proposes a contract on a firm basis to Porter, Porter might well demand gas on an interruptible basis in order to avoid the obligation of large fixed charges. For the foregoing reasons, and by reason of the fact, among others, that the industrial sale to Porter would constitute a large fraction of the city's total business, Fulton's requested allocation of G-2 gas under Section 7(a) is not properly supported.

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[11] Exh. 12.

[12] Staff Br., pp. 30–34.

[13] It is of interest in passing that Fulton would be unable to proceed with construction for some 15 months. At the hearing, Fulton did not present detailed evidence of the location of its proposed lateral or evidence of the acquisition of a right-of-way.

Admittedly, the existing lateral possesses insufficient capacity to provide the increased service to Porter whether service is rendered either by Panhandle or by Fulton. Porter desires service as contracted for, not some 15 or 20 months hence. Admittedly, Fulton has no contract demand available from which Porter can be served during the summer months. Fulton's present contract demand in July and August is 900 Mcfd.

Porter's third year peak day requirement is 2451 Mcfd. Harbison-Walker, located within the City and served directly by Panhandle, has a maximum peak day load of about 3000 Mcfd. But, aside from this, one of the questions posed is whether it is economically feasible for Fulton to construct a new line from the City to intersect the existing lateral in order to serve Porter, having no clear long-time commitment. Fulton's cost of construction and debt service estimates are dependent essentially on the Porter load, otherwise the amortization of the line must be paid for by the citizens of Fulton. There is no assurance that Fulton would be able to substantially improve its load factor by securing interruptible service for resale to Porter. Accordingly, we cannot say that Fulton's request is economically feasible and it is therefore denied.

As adverted to heretofore, Panhandle proposes to loop its existing lateral for some 14.1 miles south of its mainline, and to lay 1.25 miles of 4-inch line from its existing lateral to the Porter plans. Fulton says that, in the event it receives an allocation of gas from Panhandle and Panhandle declines to construct its proposed loop, then Fulton will construct its own 8-inch pipeline north from the city to intersect Panhandle's existing lateral.[14] Fulton claims that it can build its facilities more cheaply than Panhandle, and could avoid duplication. But neither of these contentions are established. There is in this case no parallel or duplicate facilities as is sometimes found in a contest between a pipeline and a distributor. While Fulton's estimate was lower than Panhandle's some necessary costs had not been included. Panhandle's looping may be made on its present right-of-way. Fulton, on the other hand, must secure its own. Also, in Fulton's estimate, the cost of relocating and improving the measuring and regulating station is not included. It would be necessary to relocate this at the loop interception on the existing lateral.

The instant case is not one in which the right of a pipeline to serve an industrial customer in the service area of a distributor is fittingly equated with the right of a distributor. In such a case on balance of interest the Commission's policy properly requires that a wholesale supplier should not compete directly with its distributor customers. This view was expressed in the recent case of *Northern Natural Gas Company*, 33 FPC 501, 503 (1965). In that case the Commission referred to *Southern Natural Gas Company*, 25 FPC 925, 927 (1961), saying there, "We expressed the policy that in general, the wholesale supplier should not compete directly with its distributor customers", and concluded that each such case should be resolved on its individual merits. Here the evidence discloses that the proposals of the parties are unlike. Manifestly, if Panhandle constructed the lateral and Fulton obtained I-2 service from Panhandle and in turn resold to Porter on an interruptible basis and on a long term contract, there would be but little risk on the part of Fulton, and Fulton would inevitably benefit. The arguments advanced by Fulton in justification of its claimed right to serve the Porter plant are based on alternatives which are not supported by sufficient evidence and are based on the premise that the Commission should determine which of the alternatives[15] are in the best public interest for Fulton. However laudable the primary objective may be to the citizens of Fulton, the Commission should not be placed in the position of deciding what is in the best interest of the city without a concrete proposal by Fulton. A decision can only be made on the basis of the existing record, and record does not support Fulton's request.

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[14] Fulton's Exhs. 18, 19, 20, reproduced as Appendices III, IV and V.

As indicated, Panhandle proposes no change in mainline capacities in the instant case. The 1965 maximum day or contract demand of Panhandle's customers from its existing lateral are: Harbison-Walker 3000 Mcfd, City of Fulton 7500 Mcfd, and Missouri Light and Power at Auxvasse 434 Mcfd, making a total of approximately 11,000 Mcfd. Harbison-Walker's direct sale contract, with Panhandle calls for 8500 Mcfd for two plants, one at Fulton, the other at Vandalia.

Panhandle's 6-inch, 21.4-mile lateral from its mainline 100 was laid in 1931 and, by reason of the fittings and valve design limits, has a maximum allowance of 500 psig. To upgrade this line would be unduly costly with a disproportionate yield in capacity. The flow in Panhandle's lateral reflecting maximum capacity with proposed added facilities will be 16,534 Mcfd. As related to some 14,000 Mcfd sales, about 2000 Mcfd of capacity will remain in the looped lateral. The proposed construction accordingly is needed in order to serve Porter's requirements and to serve increased needs of Panhandle's other customers.

Panhandle plans to finance its construction from funds on hand. The revenues, based on third-year sales to Porter of 515,656 Mcf, were estimated at $206,000 and, after making deductions of $172,000, the net operating income was estimated at $33,653.[16] This sum on Panhandle's total estimated cost of $437,087, results in a 7.7 percent rate of return, using 3½ percent annual depreciation on incremental facilities.[17] Based on this presentation, the project is economically feasible.

In the summer of 1965, Panhandle prepared its estimate of the cost of constructing the facilities to serve Porter. The estimate as shown in its application was $425,000. At the hearing, this sum was increased to $479,000. The reason for the increase was claimed to be justified by reason of increased costs in steel pipe, contingencies, interest, and more particularly labor. Although Fulton attacked the reasonableness of Panhandle's construction and operating costs, the estimate of construction cost of Fulton was open to more serious question than that of Panhandle. Although portions of Panhandle's estimate may be disputable, we conclude, based on the entire record, that Panhandle's estimate is not unreasonable.

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[15] Fulton says, for example, that "If found necessary, Panhandle should construct its proposed 14.1 miles of loop to the Fulton lateral to sell gas to the city on a jurisdictional basis for resale to Porter"; that should "Panhandle refuse to construct new facilities found necessary to serve the city, the Commission should order Panhandle to do so" and "Should the Commission be unable to order Panhandle to construct new capacity found necessary, the Commission should order Panhandle to establish physical connection of its transportation facilities with the 14-mile lateral proposed by the city" (Fulton Br., pp. 78, 80, 82).

[16] Exh. 30

[17] The Staff claims that Panhandle's gas cost and federal income taxes are overstated so that its actual rate of return is higher. (Staff Br., 15, 30.) Panhandle's witness Albertson explained the change in cost of service by saying that, "In Exhibit 6, I was assuming for my purposes that this was the first year of operations, whereas the figures that were given by the Porter witness Monday used a third year volume of 515,657, and in order to make the two comparable I took the average plant down to the third year so that the two would be comparable." (Tr. 310.)

It cannot be gainsaid, based on the record, that Panhandle meets the requirements necessary for the issuance of a certificate of public convenience and necessity pursuant to Section 7 of the Act. Panhandle has shown that there is an available gas supply, an assured market, satisfactory engineering design for the facilities, adequate financing, economic feasibility, and that the public interest would be served by granting a certificate. Panhandle's application should be granted.

FINDINGS

Upon consideration of the record, the briefs, and arguments of counsel, it is found and concluded in addition to the findings and conclusions heretofore stated, that:

(1) The Panhandle Eastern Pipe Line Company is engaged in the transportation of natural gas in interstate commerce, and in the sale in interstate commerce of natural gas for resale, and is a "natural-gas company" subject to the Natural Gas Act.

(2) The City of Fulton, a customer of the Panhandle Eastern Pipe Line Company, is a municipality in the State of Missouri authorized to engage in the local distribution of natural gas to the public. Its present contract demand is as follows: 7500 Mcf per day for the months of January, February, and March, 4500 for April, 3400 for May, 1700 for June, 900 for July and August, 2000 for September, and 4400 for October, November, and December, respectively.

(3) The H. K. Porter Company, Inc., brick plant now under construction on the outskirts of the City of Fulton, Missouri, has estimated peak day requirements for the first 3 years of 2073 Mcf, 2127 Mcf, and 2451 Mcf per day, respectively.

(4) Under the circumstances herein, the City of Fulton is unable to supply the peak day requirements of the H. K. Porter Company, Inc., from its existing firm contract demand because such requirements are in excess of Fulton's total contract demand for several summer months of the year.

(5) Under the circumstances herein, the City of Fulton cannot be granted a G–2 firm allocation of gas for resale to the H. K. Porter Company, Inc., because its case falls short of establishing a firm market for this type of service and the desired economic feasibility therefor.

(6) Under the circumstances herein, the City of Fulton cannot be granted an I–2 allocation of gas for resale to the H. K. Porter Company, Inc., because its case falls short of establishing the desired economic feasibility therefor.

(7) The Panhandle Eastern Pipe Line Company cannot supply the City of Fulton a G–2 allocation of gas because it possesses no excess mainline capacity.

(8) Under the circumstances herein, the Panhandle Eastern Pipe Line Company cannot be compelled to loop or enlarge its existing lateral in order to serve a Section 7(a) allocation of gas to the City of Fulton for resale to Porter either on a firm or an interruptible basis.

(9) The Panhandle Eastern Pipe Line Company's existing lateral serving the Harbison-Walker Company in Fulton and the City of Fulton possesses insufficient peak day capacity to meet Panhandle's customer's existing requirements including the requested G-2 allocation of the City of Fulton for resale to the H. K. Porter Company, Inc.

(10) The sale and delivery of up to 3000 Mcf daily of interruptible natural gas by the Panhandle Eastern Pipe Line Company to the H. K. Porter Company, Inc., and the construction of the facilities therefor as proposed are and will be required by the present and future public convenience and necessity.

ORDER

WHEREFORE, *It is hereby ordered*, subject to review by the Commission:

(A) A certificate of convenience and necessity be and the same is hereby issued to the Panhandle Eastern Pipe Line Company authorizing the transportation and sale of natural gas, on an interruptible basis, to the H. K. Porter Company, Inc., and authorizing the construction of the required facilities to effect such transportation and sale, all as more fully described in the application and exhibits in this proceeding upon the terms and conditions of this order.

(B) The certificate issued in paragraph (A) above, and the rights granted herein are conditioned upon the applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(2), (c)(3), (c)(4) and (e) of Section 157.20 of such Regulations.

(C) The facilities hereby authorized shall be constructed and placed in actual operation and the delivery of natural gas authorized by paragraph (A) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act, within one year from the date on which this order issues.

HARRY C. SHRIVER,
Presiding Examiner.

APPENDIX I

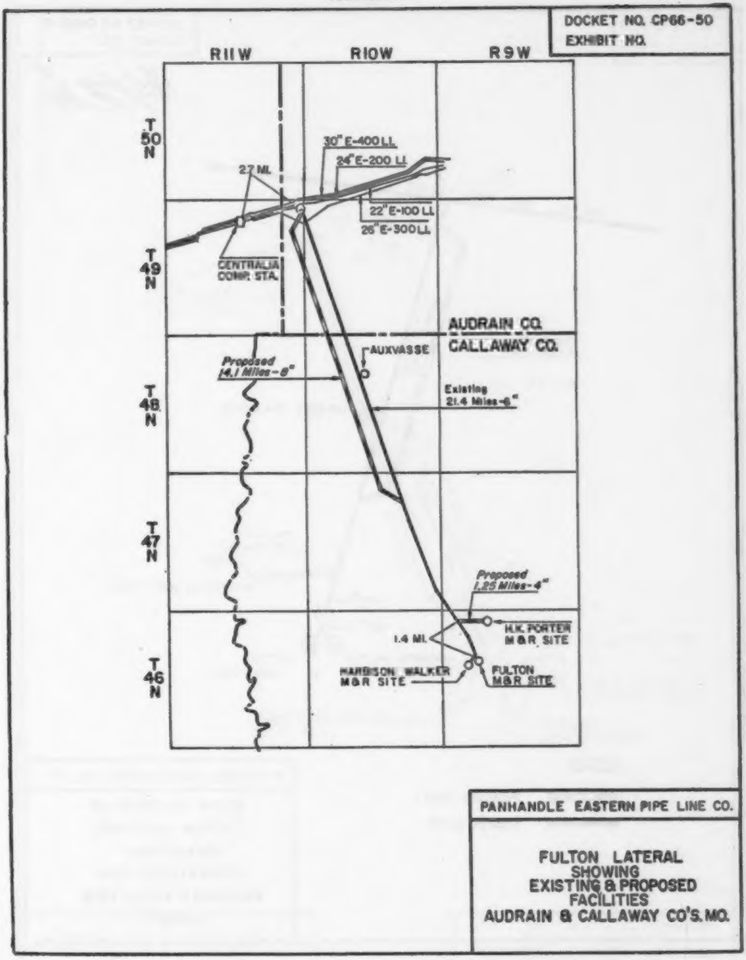
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EXHIBIT NO.
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R10W
R9W
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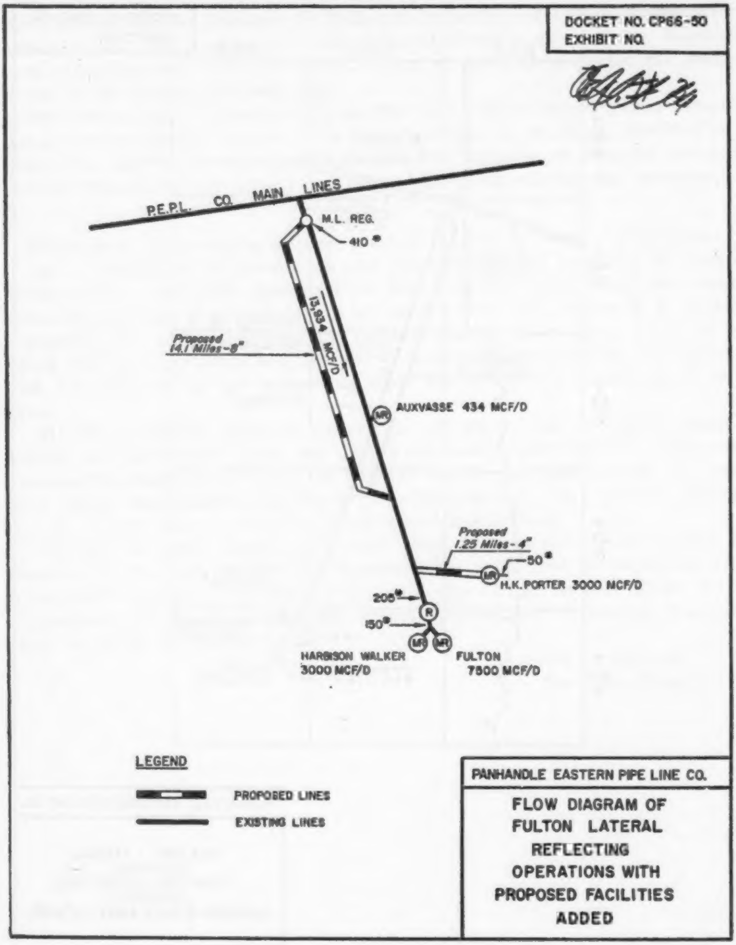
T 49 N
T 48 N
T 47 N
T 46 N
30" E-400 LL
24" E-200 LL
22" E-100 LL
26" E-300 LL
2.7 MI.
CENTRALIA COMP. STA.
AUDRAIN CO.
CALLAWAY CO.
AUXVASSE
Proposed 14.1 Miles-8"
Existing 21.4 Miles-6"
Proposed 1.25 Miles-4"
1.4 MI.
H.K. PORTER M&R SITE
HARBISON WALKER M&R SITE
FULTON M&R SITE
PANHANDLE EASTERN PIPE LINE CO.
FULTON LATERAL SHOWING EXISTING & PROPOSED FACILITIES AUDRAIN & CALLAWAY CO'S. MO.

APPENDIX II


DOCKET NO. CP66-50
EXHIBIT NO.
P.E.P.L. CO. MAIN LINES
M.L. REG.
410 #
13,934 MCF/D
Proposed 14.1 Miles - 8"
MR
AUXVASSE 434 MCF/D
Proposed 1.25 Miles - 4"
50 #
MR
H.K. PORTER 3000 MCF/D
205 #
R
150 #
MR
MR
HARBISON WALKER 3000 MCF/D
FULTON 7500 MCF/D
LEGEND
PROPOSED LINES
EXISTING LINES
PANHANDLE EASTERN PIPE LINE CO.
FLOW DIAGRAM OF FULTON LATERAL REFLECTING OPERATIONS WITH PROPOSED FACILITIES ADDED

APPENDIX III

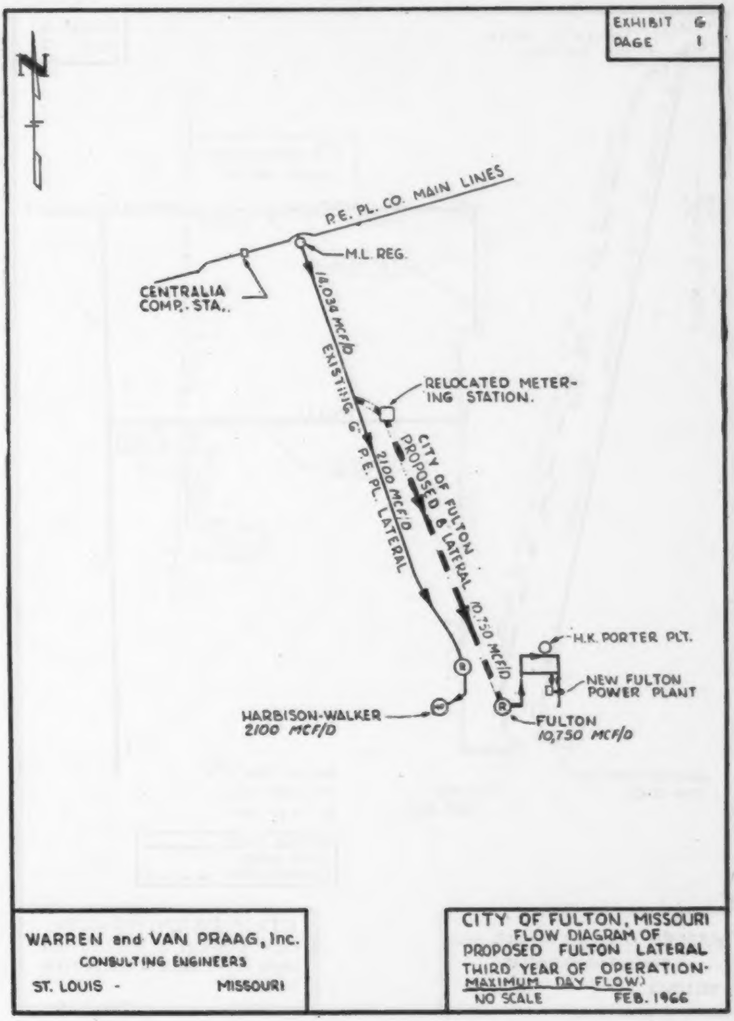


EXHIBIT G
PAGE 1
N
P.E. PL. CO. MAIN LINES
M.L. REG.
CENTRALIA COMP. STA.
18,034 MCF/D
EXISTING 6" P.E. PL. LATERAL
2100 MCF/D
RELOCATED METERING STATION.
CITY OF FULTON PROPOSED 6" LATERAL
10,750 MCF/D
H.K. PORTER PLT.
NEW FULTON POWER PLANT
HARBISON-WALKER 2100 MCF/D
FULTON 10,750 MCF/D
WARREN and VAN PRAAG, Inc.
CONSULTING ENGINEERS
ST. LOUIS - MISSOURI
CITY OF FULTON, MISSOURI
FLOW DIAGRAM OF
PROPOSED FULTON LATERAL
THIRD YEAR OF OPERATION-
MAXIMUM DAY FLOW)
NO SCALE FEB. 1966

APPENDIX IV

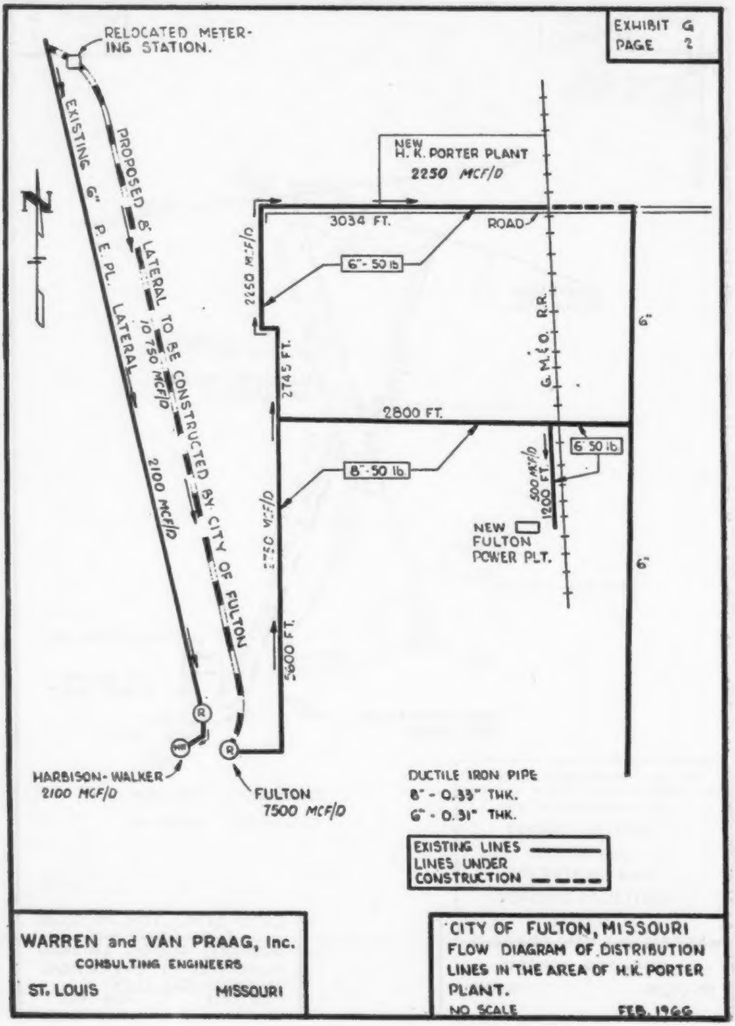
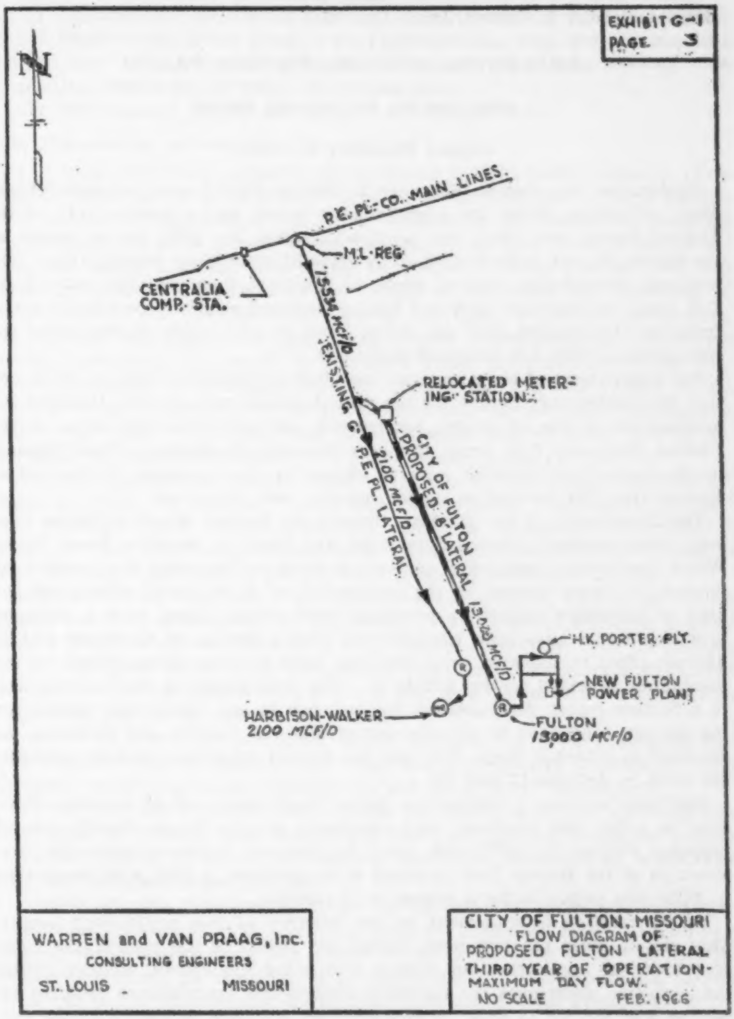


EXHIBIT G
PAGE 2
RELOCATED METERING STATION.
N
EXISTING 6" P.E. PL. LATERAL
2100 MCF/D
PROPOSED 8" LATERAL TO BE CONSTRUCTED BY CITY OF FULTON
10 750 MCF/D
NEW H.K. PORTER PLANT
2250 MCF/D
3034 FT.
ROAD
6"-50 lb
2250 MCF/D
2745 FT.
G.M.& O. R.R.
6"
2800 FT.
8"-50 lb
6" 50 lb
500 MCF/D
1200 FT.
2750 MCF/D
NEW FULTON POWER PLT.
6"
5600 FT.
R
R
HW
HARBISON-WALKER
2100 MCF/D
FULTON
7500 MCF/D
DUCTILE IRON PIPE
8" - 0.33" THK.
6" - 0.31" THK.
EXISTING LINES
LINES UNDER CONSTRUCTION
WARREN and VAN PRAAG, Inc.
CONSULTING ENGINEERS
ST. LOUIS MISSOURI
CITY OF FULTON, MISSOURI
FLOW DIAGRAM OF DISTRIBUTION LINES IN THE AREA OF H.K. PORTER PLANT.
NO SCALE FEB. 1966

APPENDIX V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PAGE 3
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M.L. REG.
CENTRALIA COMP. STA.
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EXISTING 6" R.E. PL. LATERAL
2100 MCF/D
RELOCATED METERING STATION.
CITY OF FULTON PROPOSED 6" LATERAL
13,000 MCF/D
H.K. PORTER PLT.
NEW FULTON POWER PLANT
HARBISON-WALKER 2100 MCF/D
FULTON 13,000 MCF/D
WARREN and VAN PRAAG, Inc.
CONSULTING ENGINEERS
ST. LOUIS - MISSOURI
CITY OF FULTON, MISSOURI
FLOW DIAGRAM OF PROPOSED FULTON LATERAL
THIRD YEAR OF OPERATION-MAXIMUM DAY FLOW.
NO SCALE
FEB. 1966

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

OHIO POWER COMPANY, PROJECT NO. 2570

ORDER ISSUING PRELIMINARY PERMIT

(Issued December 27, 1966)

Application was filed on February 2, 1966 by Ohio Power Company (Applicant) of Canton, Ohio, for a preliminary permit under Section 4(f) of the Federal Power Act (Act) for proposed Project No. 2570, to be known as the Racine Project, to be located on the Ohio River in Meigs County, Ohio. The proposed hydroelectric project would be constructed on the Ohio side of the U.S. Corps of Engineers' proposed Racine Dam and would utilize surplus water from the Government dam and affect lands of the United States under the jurisdiction of the U.S. Corps of Engineers.

The Department of the Army and the Chief of Engineers have recommended that any preliminary permit for the project should provide that Applicant coordinate its studies of design, construction and operation with those of the District Engineer, U.S. Army Engineer District, Huntington, West Virginia, in the interest of avoiding adverse effects on the operation of the Corps' Racine Dam for navigation, water quality, and recreation.

The Department of the Interior, through its Federal Water Pollution Control Administration, expressed its views and those of the Ohio River Valley Water Sanitation Commission concerning problems involving the possible reduction of oxygen content by the construction of hydroelectric plants and the need to undertake studies to determine what effect, if any, such a proposed operation would have upon the dissolved oxygen content of the water and, if adverse effect is indicated, what the best method of reaeration would be—as hereinafter provided for by Article II. The Department of the Interior has, in a further report, recommended for inclusion in any preliminary permit for the project, conditions in the interests of fish and wildlife and recreation as set forth in attached Form P-1, and two special conditions in such interests, set forth in Articles 12 and 13.

Applicant requests a preliminary permit for a period of 24 months. However, in order that Applicant may coordinate possible future construction of proposed Project No. 2570 with the U.S. Corps of Engineers' plans for construction of the Racine Dam proposed to be initiated in 1967 with completion in 1970, this permit is for a period of 12 months.

No construction is authorized by the issuance of this preliminary permit. This permit gives the permittee, during the period of the permit, the right of priority of application for license over other non-Federal entities, while the permittee undertakes the necessary studies and examinations required by Section 9 of the Act in order to determine the economic feasibility of the proposed project, the means of securing the necessary financial arrangements for construction, the market for power, and all other information necessary for inclusion in an application for license, should one be applied for under the permit. A license would authorize construction of a project.

The issuance of a preliminary permit for Project No. 2570, as hereinafter provided, shall not in any way be construed as precluding the exercise of Commission action contemplated under the provisions of Section 7(b) of the Act.

The Commission further finds:

(1) Applicant is a corporation organized under the laws of the State of Ohio.

(2) Public notice of the filing of the application has been given as required by the Act. No protests or petitions to intervene have been received. No conflicting application is before the Commission.

(3) The proposed project will affect a Government dam.

The Commission orders:

(A) This preliminary permit is hereby issued to Ohio Power Company (Permittee) for a period of 12 months, effective as of December 1, 1966, for the sole purpose of maintaining priority of application for license for proposed Project No. 2570, to be located on the Ohio side of the U.S. Corps of Engineers' proposed Racine Lock and Dam on the Ohio River in Meigs County, Ohio, and affecting lands of the United States, subject to the terms and conditions of Sections 4(f) and 5 of the Federal Power Act (Act) which are incorporated by reference as a part of this permit, and subject to such rules and regulations as the Commission has issued or prescribed under the provisions of the Act.

(B) According to the application for permit, the proposed project would consist of the installation at the Government dam of low-head hydroelectric generating units, the number, size and preferable type of which will be determined by Applicant's studies and investigations under this permit.

(C) This preliminary permit is also subject to the terms and conditions set forth in Form P-1 entitled "Terms and Conditions of Preliminary Permit," (16 FPC 1303–1305) which terms and conditions, designated as Articles 1 through 8, are attached hereto and made a part hereof, and further subject to the following special conditions set forth herein as additional articles:

Article 9. The Permittee shall submit at the close of each three month period from the effective date of this permit to the Regional Engineer, Federal Power Commission, New York, New York, having supervision over the project, or to such other offices as the Commission may designate, accurate statements of the work accomplished during the period and of the work contemplated under this permit for the ensuing period.

Article 10. The Permittee shall, during the period of project planning consult with the District Engineer, U.S. Army Engineer District, Huntington, West Virginia concerning design, construction and operation of the project.

Article 11. The Permittee shall, during the period of project planning, consult with the Federal, State, multi-State, and local agencies having an interest in water quality as affected by rates of discharge, reaeration of water, and flowage conditions below the dam.

Article 12. The Permittee shall, during the period of project planning, consult with the Federal, State, and local agencies having an interest in outdoor recreation on project lands and waters, in the preparation of an "Exhibit R" which is required for the filing of an application for license pursuant to Section 4.41 of the Commission's Regulations under the Federal Power Act.

Article 13. The Permittee shall, during the period of project planning, consult with Federal, State, and local agencies having an interest in fish and wildlife in project lands and waters, in the preparation of an "Exhibit S" which is required for the filing of an application for license pursuant to Section 4.41 of the Commission's Regulations under the Federal Power Act.

Article 14. The Permittee shall, for the purpose of assuring the cooperation required by the terms of the permit, designate a liaison officer to act for the Permittee in keeping the several agencies specified in this permit currently informed, and such liaison officer shall communicate with such agencies within 60 days from the date of issuance of this permit.

(D) This order shall become final 30 days from the date of its issuance unless application for rehearing shall be filed as provided in Section 313(a) of the Act, and failure to file such an application shall constitute acceptance of this preliminary permit. In acknowledgement of the acceptance of this preliminary permit, it shall be signed for the licensee and returned to the Commission within 60 days from the date of issuance of this order.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

THE BRITISH-AMERICAN OIL PRODUCING COMPANY, DOCKET NO. G-10615, ET AL.[1]

ORDER APPROVING RATE SETTLEMENT PROPOSAL, SEVERING AND TERMINATING PROCEEDINGS, AND PRESCRIBING REFUNDS

(Issued December 28, 1966)

There is before us for consideration a Motion for Approval of Settlement Proposal, Termination of Rate Proceedings and for Shortened Procedure Certification filed on June 30, 1966, as amended by letter filed on September 19, 1966, by The British-American Oil Producing Company (British-American) encompassing the rates for 27 of its currently effective FPC Gas Rate Schedules. Protests, objections and comments were filed by some of the parties to these proceedings, but were withdrawn subsequent to the amendatory letter filed by British-American on September 19, 1966. In summary, the settlement proposal, as amended, filed by British-American provides:

(1) Settlement rates, including tax reimbursement, equal to or less than the Commission's applicable area rate ceilings;

(2) British-American waives the right to file for contractually authorized increased rates to be effective prior to July 1, 1969, for all of the rate schedules involved in the settlement. However, British-American reserves the right to file for any increased rates, if contractually authorized, up to the applicable area rate levels established by any order or rule of the Commission, or to file for any contractually authorized increase in tax reimbursement;

(3) British-American will delete any favored-nation, price-redetermination and periodic-pricing provisions which may be in its FPC Gas Rate Schedule Nos. 7, 9, 11, 15, 30 and 32 in accordance with the Second and Seventh Amendments to the Commission's Statement of General Policy No. 61-1, 18 CFR 2.56;

(4) In accordance with its letter amendment, British-American will make refunds, with interest at the applicable rate until June 30, 1966[2] under each rate schedule where collection was made subject to refund of the difference between the revenues actually collected and those collectible at the settlement rate, in each instance, commencing with January 1, 1964, to the date of issuance of this order for all of British-American's rate schedules excepting two sales in the San Juan Basin in the State of New Mexico where the proceedings per-

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[1] The additional dockets involved herein are set forth in Appendices A, B, C and D attached hereto.

[2] However, British-American has acquiesced in payment of interest through September 30, 1966, as hereinafter ordered.

tain to the New Mexico Emergency School Tax Reimbursement which were excluded from the settlement;

(5) Exclusion from the settlement proposal of all Permian Basin sales.

In support of its proposal, as amended, British-American states that the settlement rates, refunds, the moratorium period, and other provisions thereof not specifically noted herein, are in the public interest in that they are reasonable and will provide price stability for a long period of time for natural gas moving in interstate commerce.

With respect to refunds, the parties to the settlement conference utilized cost-of-service studies and revenues based on contract rates to determine British-American's revenue-cost relationship. These studies indicate that it is appropriate that we require that refunds should be computed for sales where monies were collected subject to refund on and after January 1, 1964, as hereafter ordered. Such refunds will approximate $625,000, plus applicable interest computed through September 30, 1966, which approximates 50% of the monies collected subject to refund above the settlement rates. For all the reasons stated in our order in *Humble Oil & Refining Company*, Docket No. G-9287, *et al.*, 32 FPC 49, we shall order British-American to retain the amounts of refund ordered herein until further action by the Commission directing their disposition.

British-American's presently effective rates will be reduced under the settlement proposal so as to effectuate an annual reduction of approximately $260,000 in its jurisdictional revenues. Thus, approval of British-American's proposal will result in disallowance of approximately 50% of the increased rates currently being collected in Section 4(e) proceedings.

The settlement proposal includes rates for which issuance of related permanent certificates is pending, some of which are for deliveries presently being made under temporary authority.[3] We propose to set such applications for abridged statutory hearing in accordance with Section 7 of the Natural Gas Act, indicating that the settlement rates, as provided for herein, shall be the initial price.

Our action herein should not be construed as constituting approval of future rate increases, if any, that may be filed under the subject rate schedules, and is without prejudice to any findings or orders of the Commission in pending or future proceedings, including area rate or similar proceedings, involving British-American's rates and rate schedules.

The Commission finds:

The proposed settlement of the subject proceedings on the basis described herein, as more fully set forth in the Settlement Proposal, as amended, filed by British-American on June 30, 1966, is in the public interest and it is appropriate in carrying out the provisions of the Natural Gas Act that it be approved and made effective as hereinafter ordered, and good cause exists for approving the settlement rates, for severing and terminating certain proceedings and providing for refunds.

The Commission orders:

(A) The settlement of these proceedings on the basis of the settlement proposal, filed by British-American on June 30, 1966, as amended by its filing of September 19, 1966, is approved.

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[3] See Appendix B attached hereto.

(B) The applicable settlement rates set out in Appendix A hereto are approved, and such rates shall be effective as of the date of issuance of this order.

(C) The approved settlement rates shall be applicable during the moratorium period herein provided for all sales of natural gas from all acreage dedicated as of the date of issuance of this order under each of the rate schedules currently on file with the Commission whether such sales are made by British-American, its successors or assignees.

(D) British-American shall compute the difference between the rates collected subject to refund and the related settlement rates or rates not subject to refund, whichever rate is the greater, for the period from January 1, 1964, to the date of this order, together with interest as specified in each docket through September 30, 1966. British-American shall, within 45 days from the date of this order, submit a report to the Commission, and serve a copy on each of the purchasers involved, setting out by purchasers the amount of refunds related to each rate schedule (showing separately the principal and applicable interest), the bases used for such determination and the periods covered.

(E) British-American shall retain the amounts shown in the report required under paragraph (D) above, subject to further action of the Commission directing the disposition of those amounts.

(F) If British-American elects to commingle these retained refunds with its general assets and use them for its corporate purposes, it shall pay interest thereon at the rate of 6% per annum on all funds thus available from December 15, 1966, to the date on which they are paid over to the person ultimately determined to be entitled thereto by final action of the Commission.

(G) If British-American elects to deposit the retained refunds in a special escrow account, British-American shall tender for filing on or before December 15, 1966, an executed Escrow Agreement, conditioned as set out below accompanied by a certificate showing service of a copy thereof upon each of its jurisdictional customers. Unless notified to the contrary by the Secretary within 30 days from the date of filing thereof, the Escrow Agreement shall be deemed to be satisfactory and to have been accepted for filing. The Escrow Agreement shall be entered into between British-American and any bank or trust company used as a depository for funds of the United States Government and the Agreement shall be conditioned as follows:

(1) British-American, the bank or trust company, and the successors and assigns of each, shall be held and formally bound unto the Federal Power Commission for the use and benefit of those entitled thereto, with respect to all amounts and the interest thereon, deposited in a special escrow account, subject to such Agreement, and such bank or trust company shall be bound to pay over to such person or persons as may be identified and designated by final order of the Commission and in such manner as may be therein specified, all or any portion of such deposits and the interest thereon.

(2) The bank or trust company may invest such deposits in any short-term indebtedness of the United States or any agency thereof, or in any form of obligation guaranteed by the United States which is, respectively, payable within 120 days as the said bank or trust company in the exercise of its sound discretion may select.

(3) Such bank or trust company shall be liable only for such interest as the invested funds described in Paragraph (2) above will earn and no other interest may be collected from it.

(4) Such bank or trust company shall be entitled to such compensation as is fair, reasonable and customary for its services as such, which compensation shall be paid out of the escrow account to such bank or trust company. Said bank or trust company shall likewise be entitled to reimbursement for its reasonable expenses necessarily incurred in the administration of this escrow account, which reimbursement shall be made out of the escrow account.

(5) Such bank or trust company shall report to the Secretary quarterly, certifying the amount deposited in the trust account for the quarterly period.

(H) The pending certificate proceedings set out in Appendix B hereto shall not be determined on the basis of the approval of the settlement proposal, but shall be determined after hearing in accordance with Section 7 of the Natural Gas Act.

(I) Within 90 days from the date of this order, British-American shall make such filings under its rate schedules as are required to make effective the terms of the settlement proposal.

(J) Upon full compliance by British-American with all the terms and provisions of this order, the Section 4(e) proceedings listed in Appendix A hereto, and the Section 5(a) proceeding in Docket No. G-10615 shall terminate.

(K) Upon termination of the Section 4(e) proceedings listed in Appendix C hereto, in accordance with Paragraph (J) above, said proceedings shall be severed from the consolidated proceedings in Docket Nos. AR61-2, AR64-1, and AR64-2, respectively.

(L) This order is without prejudice to any findings or orders which have been or may be made hereafter by the Commission, and is without prejudice to claims or contentions which may be made by British-American, the Commission staff, or any affected party hereto, in any proceedings now pending, including area rate or similar proceedings, or hereafter instituted by or against British-American or any other companies, person or parties affected by this order.

APPENDIX A

THE BRITISH-AMERICAN OIL PRODUCING COMPANY, DOCKET NO. G-10615, ET AL.

FPC GRS No.	FPC rate area and pressure base field	Purchaser	Docket No.		Rates, cents per Mcf at area pressure base (inclusive of tax reimbursement)		
			Certificate	Rate	Not subject to refund	In effect subject to refund	Proposed settlement rate
	Texas RR Comm. Dist. No. 3 at 14.65 psia						
8	Sheridan	Iroq. G. Corp	G-6203	G-13471 RI62-184	16.6584	18.6776	16.0
16	W. Rock Island	Tenn. G.T. Co	G-9814	G-17286	13.2782	15.9502	14.0
	Texas RR Comm. Dist. No. 6 at 14.65 psia						
7	Waskom	Miss. R.F. Corp. (now Miss. R.T. Corp.).	G-6207	G-18472 RI62-328 RI65-530	13.6296	15.144	[1] 15.0
3	Çarthage	United G.P.L. Co	G-6202		10.8876		10.8876
	Texas RR Comm. Dist. No. 10 at 14.65 psia						
56	Panhandle	Cities S.G. Co	CI63-918		10.0		10.0
64	do	Transw. P.L. Co	G-16091		17.0		17.0
	Oklahoma Panhandle at 14.65 psia						
15	Greenough	Pan. E.P.L. Co	G-8764	RI62-184	12.2828	13.176	[2] 12.0
	Oklahoma Other at 14.65 psia						
11	N.E. Elmore	Lone S.G. Co	G-6199	RI60-214	11.0	12.35	[3,4] 10.25
12	W. Edmond	Cities S.G. Co	G-6201		6.6997	10.5	10.5
33	N. Wakita	do	G-17789	RI60-159 RI65-412	12.0	14.0	12.0
50	S. Marlow	Ark. La. G. Co	CI62-307		15.0		15.0
51	Doyle	Lone S.G. Co	CI62-984		15.0		15.0
58	Woodward Area	Mich. W.P.L. Co	CI63-1470		15.0		15.0
	Oklahoma-Carter-Knox at 14.65 psia						
34	Knox	Lone S.G. Co	G-17965		16.8		16.8

	New Mexico at 15.025 psia						
45	Bisti-Gallup	El P.N.G. Co.	G-19108	RI64-32 RI64-522	13.0	[3] 13.21755	13.0
48	W. Kutz Canyon	do	CI61-607	RI64-32 RI64-522	13.0	[3] 14.2175	13.0
	Colorado at 15.025 psia						
9	Logan County	Kans.-N.N.G. Co.	G-6195	[6] G-19024	12.8262 5.497	13.7424	[2, 5] 13.7424 5.497
32	do	do	G-15894	RI62-215	12.8262	13.74238	[1] 13.74238
36	do	do	G-20329		6.4131		6.4131
41	Greenwood	Colo. I.G. Co.	G-18823	G-18950	15.384	16.4096	15.0
53	Logan County	Kans.-N.N.G. Co.	CI62-1433		12.8262		12.8262
55	Horsetail	do	G-6195		6.4131		6.4131
62	Riverside	do	CI64-1088		13.0		13.0
63	Divide Creek	Garfield G. G. Co.	CI64-1400		15.0		15.0
	Wyoming at 15.025 psia						
66	Wind River Basin	Mon.-Dak. U. Co.	CI65-1224		15.384		15.384
	Mississippi at 15.025 psia						
30	Gwinville	South N.G. Co.	G-6198	G-14630	7.3286	20.0	15.0256
	North Louisiana at 15.025 psia						
28	Cadeville	United G.P.L.Co.	G-12751		13.5		13.5
54	Cheniere Brake	Ark.-La. G. Co.	CI63-253		18.33		18.33
	South Louisiana at 15.025 psia						
17	Cameron	Mich.-W.P.L. Co.	G-6813	RI61-540	19.75	23.0	19.75
22	West Bay	South. N.G. Co.	G-13636	RI61-174	22.0	23.5	20.0
31	Ramos	Texas G.T. Corp.	G-14515	RI62-274	20.75	21.75	20.0
47	Valentine	United F.G. Co.	CI61-600	RI62-184	19.9	20.3	19.9
57	Sec. 28 Dome	South. N.G. Co.	CI63-1156		20.25		20.0
61	Deep Lake	United F.G. Co.	CI64-573	RI64-662 RI65-194	18.3	21.5	18.3
67	Block 71	Transco. G.P.L. Corp.	CI66-72		18.5	19.0	18.5

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[1] British-American to tender necessary filing in accordance with the provisions of the Second Amendment to Statement of General Policy No. 61-1, issued Nov. 27, 1963 (18 CFR 2.56).

[2] British-American to tender necessary filing in accordance with the provisions of the Seventh Amendment to Statement of General Policy No. 61-1, issued Nov. 27, 1963 (18 CFR 2.56).

[3] Docket Nos. RI64-32 and RI64-522 reflect an increase in tax reimbursement resulting from an increase in the New Mexico emergency school tax; the latter docket covers also a fixed-price escalation.

[4] Proposed settlement rate was 12.0, however Lone Star and British-American agree that the proper rate should be 10.25.

[5] Volumes adjusted and sold may be adjusted by an agreed upon supercompressibility factor by the buyer and seller.

[6] Rex Monahan made co-respondent by order issued Sept. 17, 1963, under Monahan's FPC Gas Rate Schedule No. 5.

APPENDIX B—PENDING CERTIFICATE APPLICATIONS AND RELATED SECTION 4(e) INCREASES

THE BRITISH-AMERICAN OIL PRODUCING COMPANY, DOCKET NO. G-10615, ET AL.

FPC GRS No.	FPC rate area and pressure base field	Purchaser	Docket No.		Rates, cents per Mcf at area pressure base (inclusive of tax reimbursement)		
			Certificate	Rate	Not subject to refund	In effect subject to refund	Proposed settlement rate
	South Louisiana at 15.025 psia						
57	Sec. 28 Dome	South. N.G. Co.	CI63-1156		20.25		20.0
61	Deep Lake	United F.G. Co.	CI64-573	RI64-662 RI65-194	18.3	21.5	18.3
67	Block 71	Transco. G.P.L. Corp.	CI66-72		18.5	19.0	18.5

APPENDIX C

THE BRITISH-AMERICAN OIL PRODUCING COMPANY, DOCKET NO. G-10615, ET AL.

List of Section 4(e) Dockets Incorporated in Consolidated Area Rate Proceedings, Docket Nos. AR61-2, AR64-1, and AR64-2

AR61-2:	AR64-1:	AR64-2:
RI61-174	G-18950[1]	G-13471
RI61-540	RI60-159	G-17286
RI62-184	RI62-184	RI62-184
RI62-274		

[1] Although this docket relates to Rate Schedule No. 41, covering a sale by British-American to Colorado Interstate Gas Company from the Greenwood Field in Baca County, Colorado, it was consolidated with Docket No. AR64-1, *et al.*, by the Commission's order issued on Nov. 27, 1963, 30 FPC 1354.

APPENDIX D

THE BRITISH-AMERICAN OIL PRODUCING COMPANY, DOCKET NO. G-10615, ET AL.

Section 4(e) Dockets To Remain Open Pending Resolution of New Mexico Tax Controversy

RI64-32
RI64-522

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

COLORADO INTERSTATE GAS COMPANY, DOCKET NO. CP65-377

ORDER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued December 28, 1966)

On October 10, 1966, Colorado Interstate Gas Company (Colorado) filed in Docket No. CP65-377 a motion to amend the Commission's order issued August 24, 1965, 34 FPC 564, in said docket, by authorizing Colorado to continue until September 1, 1967, the sale and delivery of natural gas, on an interruptible basis, to Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), all as more fully set forth in the motion to amend in this proceeding.

The order of August 24, 1965, authorized Colorado to construct and operate certain facilities and to sell and deliver to Michigan Wisconsin, on an interruptible basis, natural gas from Colorado's Mocane-Laverne supply area, Beaver County, Oklahoma, for a one-year period commencing from the date of initial delivery. Colorado states that the one-year period ended September 2, 1966.

Colorado now requests the extension of the term of the sale until September 1, 1967. Colorado and Michigan Wisconsin have entered into an agreement, dated September 21, 1966, providing for the extended sale at a rate of 18 cents per Mcf. Colorado states that, as was the situation at the time of the August 24, 1965, authorization, Colorado still has available a gas supply temporarily in excess of its system requirements and that the proposed extended sale will assist in relieving this excess supply situation.

Due notice of the filing of the motion to amend and opportunity for hearing thereon has been given by publication in the Federal Register on October 21, 1966 (31 F.R. 13621). No protest or petition to intervene has been filed in this proceeding.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's order issued August 24, 1965, in Docket No. CP65-377 be amended as hereinafter ordered.

The Commission orders:

(A) The Commission's order issued August 24, 1965, in Docket No. CP65-377 is amended by authorizing Colorado to continue until September 1, 1967, the sale and delivery of natural gas, on an interruptible basis, to Michigan Wisconsin, all as hereinbefore described and as set forth in the motion to amend in this proceeding.

(B) In all other respects said order shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

MICHIGAN WISCONSIN PIPE LINE COMPANY, DOCKET NO. CP67-16

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued December 28, 1966)

On July 22, 1966, Michigan Wisconsin Pipe Line Company (Applicant) filed in Docket No. CP67-16 an application, as supplemented on August 24, 1966, pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities in order to enable Applicant to sell to North Central Public Service Company (North Central), an existing customer, a maximum of 32,000 Mcf of additional gas per day at a price of 33.5 cents per Mcf under Applicant's proposed new Rate Schedule LVS-1 for resale to Sinclair Petrochemical, Inc. (Sinclair), all as more fully set forth in the application.

Specifically, Applicant seeks authorization for the construction and operation of 7.3 miles of 10-inch loop pipeline on its Keokuk lateral in Iowa and a 10-inch gas service line extending 10.4 miles from a point on its Keokuk lateral in the vicinity of its existing West Point delivery point in an easterly direction to a point near Fort Madison, Iowa, where Sinclair proposes to construct a fertilizer plant. Applicant also seeks authority to construct and operate seven segments of 24-inch main line loop aggregating 46.8 miles to complete the mainline looping of its southwestern system between its Meade Compressor Station (formerly Station No. 1) and its Sandwich Compressor Station (formerly Station No. 10).

Of the proposed additional delivery of 32,000 Mcf of gas per day to North Central, 19,200 Mcf will be sold on a firm basis and 12,800 Mcf on an interruptible basis. North Central proposes to make deliveries to Sinclair at the maximum daily quantity commencing September 1, 1967.

The total cost of Applicant's proposed project is estimated at $5,371,800. The aggregate cost of the proposed 7.3 miles of the Keokuk lateral loop line and the 10.4 miles of Sinclair lateral line is estimated at $501,160, exclusive of contingencies, engineering costs and interest. Applicant proposes to finance the cost of said project through bank loans and funds generated internally.

Seven of Applicant's wholesale customers and the Public Service Commission of Wisconsin filed petitions to intervene, none requesting a formal hearing but requesting only the opportunity to participate in a formal hearing in the event such a hearing was scheduled. In addition, the Iowa State Commerce Commission and North Central filed petitions supporting the subject application. Wisconsin Public Service Corporation, a distributor, filed a letter stating that it has no objection to the subject proposal. No other protests, petitions to intervene or notices of intervention have been filed herein.

At a hearing held on December 21, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Michigan Wisconsin Pipe Line Company, a Delaware corporation having its principal place of business in Detroit, Michigan, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of November 30, 1946, in Docket No. G-235 (3 FPC 830).

(2) The facilities hereinbefore described and as more fully described in the application in this proceeding are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof and the transportation and sale of natural gas by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities and the transportation and sale of natural gas by Applicant are required by the public convenience and necessity, and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate hereinafter issued and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of said Regulations.

(6) The certificate hereinafter issued should be conditioned upon Applicant's filing with the Commission an appropriate revised service agreement with North Central Public Service Co. and an appropriate rate schedule in accordance with the Commission's Regulations under the Natural Gas Act.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Michigan Wisconsin Pipe Line Company authorizing the construction and operation of the facilities and the transportation and sale of natural gas as hereinbefore described and as more fully set forth in the application in this proceeding, upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e), (f) and (g) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be completed and placed in actual operation and the transportation and sale of natural gas authorized in paragraph (A) above shall commence, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations under the Natural Gas Act within one year from the date of this order.

(D) The certificate issued by paragraph (A) above is conditioned upon Applicant's filing with the Commission an appropriate service agreement with North Central Public Service Co. and an appropriate rate schedule in accordance with the Commission's Regulations under the Natural Gas Act.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Carl E. Bagge and John A. Carver, Jr.

ANNUAL REPORTS OF CLASSES A, B, C AND D NATURAL GAS COMPANIES SUBJECT TO THE NATURAL GAS ACT—MISCELLANEOUS AMENDMENTS TO F.P.C. FORMS NO. 2 AND NO. 2-A, DOCKET NO. R-283

ORDER NO. 310-B

AMENDING ANNUAL REPORT F.P.C. FORM NO. 2

(Issued December 22, 1966)*

The amendments to Annual Report F.P.C. Form No. 2 here being considered are among those proposed in the notice initiating this proceeding[1] but action thereon was deferred in our Order No. 310, herein, which adopted several of the amendments also proposed in that notice.[2] More recently the proposal also included in the notice relating to the schedule "Service Interruptions", page 568, was considered, revised and promulgated by Order No. 327.[3]

Comments on these particular proposals were received from or on behalf of 16 companies, INGAA, 4 state commissions, and a federal regulatory agency.[4] We have given careful consideration to all the points raised, objections offered and suggestions made. As usual, they have been extremely helpful in our consideration. Since no one submittal referred to all of the 8 schedules now before us, we will take them up seriatim by Form No. 2 page number for convenience.

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*Published in the Federal Register on December 28, 1966 (31 F.R. 16562).

[1] Notice of Proposed Rulemaking, issued Sept. 20, 1965, and published in the Federal Register on Sept. 28, 1965, 31 F.R. 12361.

[2] Order No. 310, issued Dec. 8, 1965, 34 FPC 1436, 30 F.R. 15465. Amendments to two remaining schedules proposed in the original notice herein (Gas Purchases, page 535, and Contingent Gas Purchase Payments (new)) and not considered in Order No. 310, will be considered separately and apart from the order now being issued.

[3] Issued Sept. 8, 1966, in Docket Nos. R-283 and R-291, 36 FPC 591, 31 F.R. 12015.

[4] Carnegie Natural Gas Company; Columbia Gas System Service Corporation on behalf of Atlantic Seaboard Corporation, Columbia Gulf Transmission Company, Cumberland and Allegheny Gas Company, Home Gas Company, Kentucky Gas Transmission Corporation, The Manufacturers Light and Heat Company, The Ohio Fuel Gas Company and United Fuel Gas Company; El Paso Natural Gas Company; Natural Gas Pipeline Company of America; Northern Natural Gas Company; Panhandle Eastern Pipe Line Company; Tennessee Gas Transmission Company; Texas Gas Transmission Corporation; Trunkline Gas Company; Independent Natural Gas Association of America (INGAA); Virginia State Corporation Commission; Iowa State Corporation Commission; Public Service Commission of the District of Columbia; Kansas State Corporation Commission; Federal Communications Commission.

Page 102 We are adopting this amendment which will require reporting the names and businesses of companies associated, through common control, with the respondent. The information is not generally available from other sources and though it may be gleaned from data reported in one or more of the other schedules in Form 2, the data is not sufficient to spell out the actual associations and corporate relationships existing in an affiliated group. The added reporting burden is insignificant and is outweighed by the desirability of having a "family tree" of corporate interrelationships in one place. In our opinion, disclosure of the information is fully justified in the public interest and as an aid to the Commission's regulatory responsibilities.

Page 302 Although the state commissions listed in note 4, *supra*, objected to the proposed deletion of this schedule for reporting "Income from Merchandising, Jobbing and Contract Work", we have now been informed either that the objection has been withdrawn or that the information can be obtained by the states from other sources. The schedule is, therefore, being deleted as proposed.

Page 517 Though there were no industry comments with respect to the amendment to this schedule "Sales of Natural Gas by Communities" the Commission, upon further consideration, now believes that the proposal should not be adopted. However, instruction paragraph 4., relating to pressure base, on page 517 has been deleted. (Where appropriate, necessary changes in the other schedules here under consideration have been made where reporting volumes of gas is involved.) The instruction has become obsolete in view of the establishment by the Bureau of the Budget of a standard pressure measurement base of 14.73 psia and a temperature base of 60° F. for the statement of volumes of natural gas, effective January 1, 1967.[5] A clarifying comment by the Federal Communications Commission was received. We appreciate their interest, but, since it was directed at instruction 1. on page 516 which is not involved in this proceeding, we defer it from future consideration.

Page 519 We are adopting editorial and clarifying changes suggested by El Paso and Natural Gas Pipeline to this schedule for reporting mainline industrial sales of natural gas.

Page 521 "Sales for Resale" and *Page 524* — "Revenue for Transportation of Gas of Others." The revisions to these schedules, as was stated in the notice, require only a summarization of information presently supplied and though some objection as to page 521 was expressed by Columbia Gas System, we do not think that the added reporting burden is significant since the information is readily available. Clarifying suggestions, which we have adopted in essence, were made by El Paso and Tennessee Gas. In response to a request in the interest of uniform reporting by Northern Natural that the industry be furnished with a current list of "interstate pipeline companies," we note that such a list is issued, periodically, and is available to all respondents required to file Form No. 2.

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[5] On February 15, 1966, the Bureau of the Budget advised all federal agencies, through the issuance of an Exhibit H to its Circular No. A-46, that the standard base referred to in the text is to be used in connection with the collection and publication of information on natural gas to promote uniformity and comparability of data. On the basis of the Bureau of the Budget Circular the printing of the blank forms for the reporting year 1966 was initiated. Subsequently, on November 17, 1966, the Bureau issued a *Clarification of Circular A-46* (*Exhibit H — Standard Gas Pressure Base*) to the effect that Exhibit H "is applicable to information pertaining to *1967* and thereafter." In view of this "clarification" we are providing that gas volumes may be reported for 1966 as they have been in the past, notwithstanding that the blank forms provided require use of the standard (14.73—60°) pressure base.

Pages 567, 567A "Gas Account—Natural Gas." As revised, the two pages of this schedule now distinguish between industrial sales made in the field and those which are transmission line sales and, as well, provide for reporting information with annual volumes of each respondent's own production and that received from or delivered to LNG storage. The first change was made in response to a suggestion from Natural Gas Pipeline and the latter information on each company's own produced gas and the receipts and deliveries of LNG storage gas will give a more complete picture of the source and destination of the gas handled by each respondent—the basic purpose of the schedule.

Of the two new schedules proposed in the notice we are here prescribing the new schedule page for reporting "Unauthorized Overrun Penalties and Waiver of Penalties" in a form slightly modified from that which appeared in the notice. Suggested changes have been made as follows: the cut-off date has been changed to the calendar year instead of April 1; the word "unauthorized" is used to indicate that only such overruns are involved; and provision has been added to allow reporting by rate zones if deemed appropriate. In response to the opposition expressed by Trunkline, we reiterate the statment in the notice herein that the reporting requirement is in lieu of imposing a uniform unauthorized overrun penalty provision in all pipeline tariffs—as was proposed in Docket No. R-242—so that we can obtain information as to the actual experience and practice of the pipeline companies in administering their various penalty provisions. With this information we will be able to determine whether such a uniform provision in tariffs should be inserted to eliminate discriminatory practices.

The Commission finds:

(1) Adoption of these amendments to the Annual Report F.P.C. Form No. 2 is necessary and appropriate for the administration of the Natural Gas Act.

(2) Since the revisions here adopted which did not appear in the notice herein do not constitute substantive changes in the amendments there proposed, further notice and opportunity for comment thereon under section 4 of the Administrative Procedure Act prior to adoption is unnecessary.

The Commission, acting pursuant to the authority of the Natural Gas Act, particularly sections 10 and 16 thereof (52 Stat. 826, 830; 15 U.S.C. 717i, 717o), *orders:*

(A) Effective for the reporting year 1966 and thereafter, Annual Report, F.P.C. Form No. 2, prescribed by § 260.1, Subchapter G, Chapter I of Title 18 of the Code of Federal Regulations, is amended as follows:

1. The schedule "Control Over Respondent" (p. 102) is amended by adding to the instruction the following new sentence:

If other companies are controlled by the organization which holds control over the respondent, list the names of such companies and the kind of business each is engaged in.

2. The schedule "Income From Merchandising, Jobbing, and Contract Work" (p. 302) is deleted.

3. Instruction paragraph 4. on page 517 of the schedule "Sales of Natural Gas by Communities (Continued)" is deleted.

4. The following four schedules are revised and as so revised are adopted in the form set out in the schedule pages appended hereto*:

Main Line Industrial Sales of Natural Gas — page 519.

Sales for Resale—Natural Gas — page 521.

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*Omitted in printing.

Revenue From Transportation of Gas of Others—Natural Gas—page 524.

Gas Account—Natural Gas — pages 567, 567A.

(B) The following new schedule is prescribed for the reporting year 1967 in the form set out in the schedule page 515 appended hereto*.

Unauthorized Overrun Penalties and Waivers of Penalties.

(C) Paragraph (c) of the said § 260.1 is revised (1) by deleting from the list of schedules there set out the line "Income From Merchandising, Jobbing, and Contract Work" and (2) by adding after the title "Gas Operating Revenues" a new line as follows:

Unauthorized Overrun Penalties and Waivers of Penalties.

(Secs. 10, 16, 52 Stat. 826, 830; 15 U.S.C. 717i, 717o.)

(D) For the reasons set out in footnote 5 above, all gas volumes may be reported for the year 1966 on whatever pressure base respondents have been using in reporting such information in Form No. 2 for prior years. In all cases the pressure base used shall be stated.

(E) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

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*Omitted in printing.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

ANNUAL REPORTS OF NATURAL GAS COMPANIES—UNIFORM PRESSURE BASE—OTHER MISCELLANEOUS MODIFICATIONS, DOCKET NO. R-314

ORDER NO. 333

AMENDING ANNUAL REPORTS FPC FORMS NOS. 2 AND 2-A

(Issued December 22, 1966)*

In the course of the Commission's continuing review of the annual reports which are required to be filed by the members of the electric power and natural gas companies subject to its jurisdiction, including the FPC Forms Nos. 2 and 2-A required of all classes of natural gas companies pursuant to §§ 260.1 and 260.2 of its regulations, respectively, here under consideration, many opportunities for simplification and improvement became apparent, either from our own review or as a result of suggestions made by the persons required to file the forms. Except for the two matters discussed below, all the amendments to the two forms here being ordered are minor editorial revisions in the several schedules affected and described below in detail.

It has come to the attention of the Commission that some of the companies submitting Form No. 2 issue not only their annual reports to stockholders but, as well, other regular reports of financial, statistical and operational reviews for the information of stockholders, security analysts and other interested persons. Some of these publications have come into our hands and we have found them to be of considerable value in the exercise of our functions. Accordingly, we are here amending the instructions in Form No. 2 to require the filing not only of any published annual reports to stockholders but also of any such other reports or similar documents which a reporting company may regularly issue for the information of its stockholders and others. Since we are requiring only the submittal of material which the respondents have already prepared, albeit for other purposes, the added burden of submittal will be minimal.

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*Published in the Federal Register on December 8, 1966 (31 F.R. 16561).

It will be noted that the General Instructions (page i) is being amended by adding a new instruction (paragraph 15) to require that all gas volumes reported in the form "are to be stated on a pressure base of 14.73 psia and a temperature base of 60° F., pursuant to Exhibit H of Circular No. A-46 of the Bureau of the Budget issued February 15, 1966." Conforming changes have been made, as well, in several of the schedules requiring information relative to volumes of gas. On the basis of the Bureau of the Budget Circular the printing of the blank forms for the reporting year 1966 was initiated. Subsequently, on November 17, 1966, the Bureau issued a *Clarification of Circular A-46 (Exhibit H — Standard Gas Pressure Base)* to the effect that Exhibit H "is applicable to information pertaining to *1967* and thereafter." In view of this "clarification" we are providing that gas volumes may be reported for 1966 as they have been in the past, notwithstanding that the blank forms provided require use of the standard (14.73—60°) pressure base.

The Commission finds:

(1) The revisions of the several schedule pages of the annual reports, FPC Forms Nos. 2 and 2-A, are necessary and appropriate to the administration of the Federal Power Act.

(2) Since it is apparent from the foregoing discussion, that the revisions here prescribed are of a minor or clarifying nature and impose no added burden on the respondents, it is unnecessary to comply with the requirements of section 4 of the Administrative Procedure Act with respect to prior notice and opportunity to comment.

The Commission, acting pursuant to the authority of the Natural Gas Act, particularly sections 10 and 16 thereof (52 Stat. 826, 830; 15 U.S.C. 717i, 717o), *orders:*

(A) Effective for the reporting year 1966 and thereafter, Annual Report, F.P.C. Form No. 2, prescribed by § 260.1, Subchapter G, Chapter I of Title 18 of the Code of Federal Regulations, is amended as follows:

1. The General Instructions (page i) are amended by revising paragraph 1.; adding a new paragraph 15.; revising and redesignating as paragraph 16. the existing paragraph 15., all as set out in *Attachment A* hereto*.

2. The schedule (page 228) "Investment Tax Credits Generated and Utilized" is revised to read as set out in *Attachment B* hereto*.

3. In the schedule (page 229) "Accumulated Deferred Investment Tax Credits", the words "Electric Utility:" on line 1 of column (a) are changed to "Gas Utility:".

4. The schedule (page 548) "Natural Gas Reserves" is revised to read as set out in *Attachment C* hereto*.

5. In the schedule (page 553) "Natural Gas Production Statistics (Continued)" instruction paragraph 7. is revised to read as follows:

> 7. In stating pressure base of measuring M.c.f. of gas, pressure base should be reported at 14.73 psia at 60° F.

6. In the schedule (page 554) "Products Extraction Operation—Natural Gas", clause (c) in the second sentence of instruction paragraph 2. is revised to read as follows:

> (c) Mcf (14.73 psia at 60° F.) of gas received,

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*Omitted in printing.

7. In the schedule (page 560) "Underground Gas Storage" instruction paragraph 5. is revised to read as follows:

5. Pressure base of gas volumes reported below is 14.73 psia at 60° F.

8. In the schedule (page 563) "Manufactured Gas Production Statistics" instruction paragraph 6. is revised to read as follows:

6. Pressure base of gas reported in this schedule is 14.73 psia at 60° F.

9. In the schedule (page 564) "Liquefied Petroleum Gas Operations" instruction paragraph 7. is revised to read as follows:

7. Pressure base of gas reported in this schedule is 14.73 psia at 60° F., and Btu content * * *

(B) For the reasons set out above, all gas volumes may be reported for the year 1966 on whatever pressure base respondents have been using in reporting such information in Form No. 2 for prior years. In all cases the pressure base used shall be stated.

(C) The annual report FPC Form No. 2-A, prescribed for Classes C and D natural gas companies by § 260.2 of the said Title 18, is amended, effective for the reporting year 1966 and thereafter, as follows:

1. The schedule (page 11) "Investment Tax Credits Generated and Utilized" is revised to read as set out in *Attachment D* hereto*.

(D) The amendments here made to FPC Forms Nos. 2 and 2-A shall be effective December 31, 1966.

(E) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

TENNESSEE GAS PIPELINE COMPANY, A DIVISION OF TENNECO INC., DOCKET NO. CP66-180

ORDER AMENDING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued December 28, 1966)

On November 4, 1966, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Petitioner), filed in Docket No. CP66-180, a petition to amend the order issued in said docket on May 10, 1966, 35 FPC 715. By the instant filing, Petitioner requests that ordering paragraph (F) of the subject order be amended so as to reflect revised storage inventory requirements for the period extending from November 1, 1966, to March 31, 1967, all as more fully set forth in the petition.

By the order issued in the instant docket on May 10, 1966, Petitioner was authorized to construct and operate certain pipeline facilities and to render additional natural gas service to its existing customers.

In the instant proceeding, a stipulation was entered into by all parties present that a certificate should be issued to Petitioner subject to certain conditions contained in the stipulation. Petitioner's Exhibit T-15 entitled "Summary of Actual and Estimated Storage Activities by Months" was relied upon as a basis for certain of said conditions.

Utilizing the end of month top storage inventories contained in Petitioner's Exhibit T-15, the Commission's order in the subject docket sets forth certain conditions in Ordering Paragraphs (F), (G) and (H). Such conditions apply primarily to when Petitioner would be permitted to make certain sales of natural gas under the various rate schedules set forth in said paragraphs.

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*Omitted in printing.

At the time Petitioner prepared and submitted Exhibit T-15 to the Commission, its application in Docket No. CP66-303 was pending before the Commission. The beneficial efforts on storage inventories to be realized from utilization of the facilities proposed in Docket No. CP66-303 were not reflected in Exhibit T-15.

The Commission by order issued May 24, 1966, in Docket No. CP66-303, authorized Petitioner to construct and operate 14.18 miles of 36-inch O.D. loop pipeline on the Delta-Portland portion of its mainline system between MLV 547 and MLV 548. Said pipeline completed a dual pipeline system extending from Petitioner's supply region in the Louisiana Delta area to its mainline Compressor Station 87 in northern Tennessee. As a result of this construction of facilities Petitioner's pipeline capacity has been increased by some 98,000 Mcf of natural gas per day south of Station 87 and by a daily average of 34,000 Mcf north of Station 87 during the five winter months. Had the beneficial effect on top storage inventories resulting from operation of the facilities proposed in the application filed in Docket No. CP66-303 been reflected in Exhibit T-15, the required monthly top storage inventories contained in said exhibit and in Ordering Paragraph (F) would have been lower.

In addition to the above, there have been slight revisions of the requirements of certain of Petitioner's existing customers over and above those shown in the subject order. These changes reflected in the orders issued by the Commission in Docket Nos. CP66-398, CP67-46 and CP67-64 have an additional effect on Petitioner's required top storage inventories.

In view of the facilities authorized by the Commission in its order issued in Docket No. CP66-303, the revised requirements of Petitioner's customers and the actual operations through the end of October 1966, Petitioner has submitted a revised statement of top storage inventories for the period in question. Accordingly, Petitioner requests that Ordering Paragraph (F) of the subject order be amended so as to reflect the following inventory requirements for the end of each of the months indicated:

	MMcf
October 1966	14,516
November 1966	12,833
December 1966	8,388
January 1967	4,233
February 1967	96
March 1967	0

The Commission finds:

It is neessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's order issued in the instant docket on May 10, 1966, be amended as hereinafter ordered.

The Commission orders:

(A) Ordering Paragraph (F) of the Commission's order issued on May 10, 1966, in Docket No. CP66-180 is amended as follows:

> (F) Without specific permission from the Commission, Tennessee shall make no sales under Rate Schedules R, SR, TWS, ERS, or excess withdrawal provisions of Rate Schedules SS-5 and SS-E prior to November 1, 1966: *Provided, however,* That sales under such rate schedules may be made of

such amount of gas which Tennessee is reasonably convinced cannot be moved beyond its Compressor Station No. 200.

During the period November 1, 1966, through March 31, 1967, Tennessee shall be permitted to make sales under such rate schedules of 1,300 MMcf each month plus or minus the amount of excess or deficiency, as the case may be, in top storage inventory based on the top storage inventory for the month ending prior to such sales as shown below:

		MMcf
October	1966	14,516
November	1966	12,833
December	1966	8,388
January	1967	4,233
February	1967	96
March	1967	0

Any sales of gas under such rate schedules as contemplated above shall be made so as to be consistent with the maintenance of the specified top storage inventory for the end of the then current month.

(B) In all other respects said order shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

TRUNKLINE GAS COMPANY, DOCKET NO. CP67-119

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued December 28, 1966)

On October 31, 1966, Trunkline Gas Company (Applicant) filed in Docket No. CP67-119 an application pursuant to Section 7(c) of the Natural Gas Act, as implemented by Section 157.7(b) of the Regulations under the Act, for a certificate of public convenience and necessity authorizing the construction during the calendar year 1967 and operation of miscellaneous field facilities to enable Applicant to take into its certificated main pipeline system natural gas which will be purchased from producers thereof, all as more fully set forth in the application in this proceeding.

The purpose of this "budget-type" application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system new and existing supplies of natural gas in various producing areas generally coextensive with said system.

The total cost of the facilities covered by this application will not exceed a maximum of $2,500,000, with no single project to exceed a cost of $500,000, which costs are proposed to be financed from funds on hand.

After due notice, no petition to intervene, notice of intervention or protest to the granting of the application has been filed.

At a hearing held on December 21, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Trunkline Gas Company, a Delaware corporation having its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of April 29, 1949, in Docket No. G-882 (8 FPC 250).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding, are proposed to be used in the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Applicant should submit within 60 days after the expiration of the authorization granted hereinafter, a statement in compliance with subparagraph (3) of Section 157.7(b) of the Commission's Regulations under the Natural Gas Act.

(6) Public convenience and necessity require that the certificate hereinafter issued and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e), (f) and (g) of Section 157.20 of said Regulations.

(7) The authorization hereinafter granted should be limited to construction during the calendar year 1967 and the total expenditures for facilities to be constructed thereunder should be limited to a maximum of $2,500,000, with no single project to exceed a cost of $500,000.

The Commission orders:

(A) Upon the terms and conditions of this order, a certificate of public convenience and necessity is issued authorizing Applicant, Trunkline Gas Company, to construct during the calendar year 1967, the proposed facilities hereinbefore described, as more fully described in the application in this proceeding, and to operate such facilities only to take natural gas supplies from producers who have received authorization from the Commission to sell natural gas to said Applicant.

(B) Applicant shall submit within 60 days after the expiration of the authorization granted by paragraph (A) above a statement in compliance with subparagraph (3) of Section 157.7(b) of the Commission's Regulations under the Natural Gas Act.

(C) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e), (f) and (g) of Section 157.20 of said Regulations.

(D) The authorization granted in paragraph (A) above is limited to construction during the calendar year 1967, and the total expenditures for facilities to be constructed thereunder are limited to a maximum of $2,500,000, with no single project to exceed a cost of $500,000.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

CENTRAL ILLINOIS PUBLIC SERVICE COMPANY AND MIDWESTERN GAS TRANSMISSION COMPANY, DOCKET NO. CP67-22; COMMUNITY NATURAL GAS COMPANY, INC. AND MIDWESTERN GAS TRANSMISSION COMPANY, CP67-44; TENNESSEE GAS PIPELINE COMPANY, A DIVISION OF TENNECO INC., CP67-112

FINDINGS AND ORDER DIRECTING PHYSICAL CONNECTION OF FACILITIES AND SALE OF NATURAL GAS, AND AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued December 29, 1966)

On July 29, 1966, the Central Illinois Public Service Company (Central Illinois), filed in Docket No. CP67-22 an application pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing the Midwestern Gas Transmission Company (Respondent) to establish physical connection of its transportation facilities with the facilities proposed to be constructed by Central Illinois and to sell and deliver to it volumes of natural gas for resale and distribution in the unincorporated area of Armstrong, Vermilion County, Illinois, all as more fully set forth in the application in Docket No. CP67-22.

On August 24, 1966, Community Natural Gas Company, Inc. (Community Natural) filed in Docket No. CP67-44 an application and a supplement thereto on August 31, 1966, pursuant to Section 7(a) of the Natural Gas Act for an order of the Commission directing the Midwestern Gas Transmission Company (Respondent) to establish physical connection of its transportation facilities with the facilities proposed to be constructed by Community Natural and to sell and deliver to it volumes of natural gas for resale and distribution by it in the community of Holland, Indiana, all as more fully set forth in the application in Docket No. CP67-44.

On October 27, 1966, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), filed in Docket No. CP67-112 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale of natural gas to Midwestern Gas Transmission Company (Midwestern), all as more fully set forth in the application in Docket No. CP67-112.

Central Illinois specifically proposes that Respondent construct, own, and operate a line tap and metering station at or on its transmission line at a point approximately two and one quarter miles east of Armstrong, Illinois.

Estimated annual and peak day volumes required by Central Illinois for Armstrong are as follows:

	First year	Second year	Third year
Annual (Mcf)	11,506	18,180	22,777
Peak day (Mcf)	101	152	173

Central Illinois estimates that the total estimated cost of Respondent's construction is $15,000. Applicant also estimates its own cost of construction to be $59,630, which cost will be financed from funds on hand.

Community Natural proposes to construct and operate approximately 3 miles of 2-inch lateral line extending from a point of interconnection with the Respondent's transmission system in Pike County, Indiana, to the town border of Holland, and to construct additions and improvements to the existing Holland gas system, which system is being purchased by Community Natural from the Serv All Developing Company, Inc., of Holland, Indiana. Community Natural requests that the Commission order Respondent to make physical connection of its transmission system with Applicant's lateral line and to sell and deliver to it the volumes of natural gas required for resale in Holland, Indiana, and environs.

The application states that the third-year annual and peak day requirements of Community Natural are 64,000 Mcf and 560 Mcf respectively, which includes 150 Mcf per day of firm gas for a direct industrial customer, Holland Custard Company. The latter is to commence receiving service in 1969, but has not executed a contract for such service with Community Natural. This order is conditioned so as to require the execution of the said contract, or in the absence thereof for a reduction in requirements.

The total estimated cost of the proposed construction by Community Natural is $90,000, which cost will be financed through the sale of common stock in the amount of $45,000 and a bank loan of $45,000 for interim financing, which will be permanently financed at a later date.

Tennessee requests authorization to increase its contractual commitment to Midwestern from 409,963 Mcf per day to 410,696 Mcf per day in order to allow Midwestern to meet increases in demand on its system which may result from the Commission's directing Midwestern to serve the two Section 7(a) Applicants in the proceeding in Docket Nos. CP67-22 and CP67-44.

The additional service is to be rendered from the unallocated capacity which is available on that portion of Applicant's facilities south of its Compressor Station No. 87. No additional pipeline facilities are proposed.

Respondent was duly notified by letters of the Commission dated August 19, 1966 and September 9, 1966, of the filing of the applications in Docket Nos. CP67-22 and CP67-44, respectively, for orders directing it to provide the requested connections and services. The Respondent filed answers to the applications in the respective dockets stating it had no objection to the rendering of the requested connections and services, upon the condition that Tennessee be authorized to furnish the necessary additional supply of natural gas to Respondent for the services requested by Central Illinois and Community Natural.

Due notice of the filing of the subject applications and opportunity for hearing thereon have been given by publication in the Federal Register on August 17, 1966 (31 F.R. 19032) in Docket No. CP67-22, and on September 8, 1966 (31 F.R. 11774) in Docket No. CP67-44. No protest, petition to intervene or notice of intervention in opposition to the granting of the respective applications has been filed in these proceedings.

At a hearing held on December 28, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits submitted in support of the authorization sought, and upon consideration of the record,

The Commission finds:

(1) Respondent, Midwestern Gas Transmission Company, a Delaware corporation having its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as here-

tofore found by the Commission in its order of May 12, 1959, in Docket No. G–16841 (21 FPC 653, 663).

(2) Central Illinois Public Service Company, an Illinois corporation having its principal place of business in Quincy, Illinois, is a corporation legally authorized to engage in the local distribution of natural gas to the public within the meaning of Section 7(a) of the Natural Gas Act.

(3) It is necessary and desirable in the public interest to direct Respondent to establish physical connection of its transmission facilities with the facilities proposed to be constructed and operated by Central Illinois and to sell and deliver to it under a service agreement to be executed by it with Respondent in accordance with the Commission's Regulations, up to 173 Mcf per day of natural gas for distribution and resale as hereinbefore described.

(4) The requirement that Respondent serve Central Illinois, as hereinafter ordered, will not impair Respondent's ability to render adequate service to its existing customers.

(5) Central Illinois should be prepared to receive natural gas from Respondent for distribution in Armstrong in Vermilion County, Illinois, and environs within one year from the date of the issuance of this order.

(6) Community Natural Gas Company, Inc. is legally authorized to engage in the local distribution of natural gas to the public within the meaning of Section 7(a) of the Natural Gas Act.

(7) It is necessary and desirable in the public interest to direct Respondent to establish physical connection of its transmission facilities with the facilities proposed to be constructed and operated by Community Natural, and to sell and deliver to it under a service agreement to be executed by it with Respondent in accordance with the Commission's Regulations, up to 560 Mcf per day of natural gas for distribution and resale as hereinbefore described and as more fully described in the application in this proceeding.

(8) The requirement that Respondent service Community Natural as hereinafter ordered, will not impair Respondent's ability to render adequate service to its existing customers.

(9) Community Natural should be prepared to receive natural gas from Respondent for distribution in Holland, Indiana, and environs, within one year from the date of issuance of this order.

(10) Applicant, Tennessee Gas Pipeline Company, a Delaware corporation having its principal place of business in Houston, Texas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of July 12, 1947, in Docket No. G–910 (6 FPC 777).

(11) The proposed sale and delivery of natural gas in interstate commerce, as hereinbefore described and as more fully described in the application and exhibits in Docket No. CP67–112 are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(12) The aforesaid proposed sale and delivery of natural gas is required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(13) Tennessee is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(14) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that Tennessee shall make an appropriate tariff filing to reflect the service authorized herein in accordance with the applicable Commission Regulations.

(15) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and particularly the general terms and conditions set forth in paragraphs (a), (c)(3) and (e) of Section 157.20 of such Regulations.

The Commission orders:

(A) Respondent is directed to establish physical connection of its facilities with the facilities proposed to be constructed and operated by Central Illinois Public Service Company as herein described, and to sell and deliver up to 173 Mcf of natural gas daily to Applicant under a service agreement to be executed by Applicant with Respondent in accordance with the Commission's Regulations, for transportation, distribution and resale in Armstrong, in Vermilion County, Illinois and environs, as hereinbefore described. Such service shall be rendered pursuant to Respondent's present filed appropriate rate schedule.

(B) Respondent shall report to the Commission, in writing the date of commencement of service to Applicant within 15 days after such service begins.

(C) Central Illinois shall be prepared to receive service as directed herein within one year from the date of issuance of this order.

(D) Respondent is directed to establish physical connection of its facilities with the facilities proposed to be constructed and operated by Community Natural, as herein described, and to sell and deliver to it up to 560 Mcf of natural gas daily, under a service agreement with Community Natural to be executed in accordance with the Commission's Regulations, for distribution and resale in Holland, Indiana, and environs as hereinbefore described. The peak day delivery of 560 Mcf shall be reduced to 410 Mcf unless Community Natural obtains and files with the Commission within six months of the date of this order a contract with Holland Custard Company for firm service to commence not later than January 1, 1969.

(E) Respondent shall report to the Commission in writing the date of commencement of service to Applicant within 15 days after such service begins.

(F) Community Natural shall be prepared to receive service as directed herein within one year from the date of issuance of this order.

(G) A certificate of public convenience and necessity is issued to Tennessee in this proceeding, authorizing the sale and delivery of an additional 733 Mcf of natural gas as hereinbefore described and as more fully described in the application and exhibits in this proceeding, upon the terms and conditions of this order.

(H) The certificate issued by paragraph (G) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(3) and (e) of Section 157.20 of such Regulations.

(I) The volume of natural gas authorized in paragraph (G) above shall be reduced to 583 Mcf daily within six months from the date of this order unless Community Natural enters into and files with the Commission a firm contract with Holland Custard Company for the delivery of 177 Mcf of natural gas daily commencing not later than January 1, 1969.

(J) Tennessee shall make an appropriate tariff filing reflecting the service authorized herein, in accordance with the Commission's Regulations, within 30 days of the issuance of this order.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

CITIZENS UTILITIES COMPANY, DOCKET NO. E-7253

SUPPLEMENTAL ORDER AUTHORIZING ISSUANCE OF PROMISSORY NOTES

(Issued December 29, 1966)

By order issued December 10, 1965, 34 FPC 1441, in the above-entitled matter, the Commission, pursuant to Section 204 of the Federal Power Act, authorized Citizens Utilities Company to issue up to $9,500,000 principal amount of Promissory Notes outstanding at any one time, upon the terms and conditions set forth in that order, which include, among others that the final maturity of all such notes be not later than December 9, 1966.

Pursuant to the above-described authorization, Applicant issued $3,800,000 in notes in December 1965 and paid them off in March 1966 and it issued $250,000 in notes in September and $200,000 in notes in November 1966 for a total of $450,000.

On November 4, 1966 Applicant filed a supplemental application, requesting that the authorization and terms thereof granted by the above-mentioned order be extended and modified to the extent necessary to provide that Applicant may issue Promissory Notes up to an aggregate principal amount of $9,500,000 at any one time outstanding and that the final maturity of all such notes be not later than December 8, 1967.

The supplemental application states that the notes are to have maturities of not more than 90 days from the date of issuance and are to bear interest at the New York prime rate. The notes will be payable in whole and in part at any time without penalty. The notes are to be issued to renew outstanding notes and to furnish funds for the Applicant's 1967 construction program which has an estimated cost of $9,741,400. This total includes $939,000 for electric facilities, $326,500 for natural gas distribution facilities, $4,816,000 for telephone facilities and $3,659,000 for water facilities. The Applicant is of the opinion that the issuance of notes is the most suitable method of financing for reason that the issuance of bonds can be delayed until an economical amount of bonds can be issued at one time and to a period in which the Applicant hopes for an improvement of money market conditions.

The Commission finds:

Good cause has been shown and it is necessary and appropriate for the purposes of the Act that the authorization granted in Commission order issued December 10, 1965, be extended for one year as hereinafter provided.

The Commission orders:

(A) Paragraphs (A) and (B) of the Commission order issued December 10, 1965 in the above-entitled docket are amended to read as follows:

> (A) The proposed issuance of Promissory Notes in the aggregate principal amount of $9,500,000 outstanding at any one time, upon the terms and conditions and confined to the purposes set forth in the application filed November 12, 1965 and, as amended by supplemental application filed November 4, 1966, is hereby authorized, subjected to the provisions of this order.

(B) This authorization is expressly conditioned upon the maturity of all notes to be issued pursuant thereto being not later than December 8, 1967.

(B) All of the terms and conditions, as set forth in paragraphs (C) and (D) of the aforesaid Commission order issued December 10, 1965, shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

TRANSCONTINENTAL GAS PIPE LINE CORPORATION, DOCKET NO. CP67-109

FINDINGS AND ORDER AFTER STATUTORY HEARING PERMITTING AND APPROVING ABANDONMENT OF NATURAL GAS SERVICE

(Issued December 29, 1966)

On October 25, 1966, Transcontinental Gas Pipe Line Corporation (Applicant) filed in Docket No. CP67-109 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon natural gas service under its Rate Schedule PS-1 (Peaking Service-Zone 1), as contained in its FPC gas tariff, Original Volume No. 1, all as more fully set forth in the application in this proceeding.

Applicant's PS-1 Rate Schedule provides for firm service, from November 1 through October 31 of each year, up to Peaking Service Demand (daily volumes) and the Annual Peaking Service Quantity (50 times PS Demand), at a demand charge of $2.30 per Mcf and a commodity charge of 22.7 cents per Mcf of natural gas.

By order issued in Docket No. G-12059, Applicant was authorized, *inter alia*, to provide a peaking service of up to 21,000 Mcf of gas per day, under its Rate Schedule PS-1, to Atlanta Gas Light Company (Atlanta).

PS-1 service was rendered to Atlanta by Applicant from December 1, 1957 to November 1, 1958, from excess capacity available to Applicant during that period. No other customer has elected to take PS-1 service and the system capacity which made the service possible during the limited period ending November 1, 1958, has since been devoted to other system requirements. Subsequent to November 1, 1958, additional volumes of natural gas were made available to Atlanta under Applicant's Rate Schedule CD-1, and the service agreement for PS-1 service to that customer was cancelled. Accordingly, Applicant filed on August 1, 1966, notices of cancellation of Rate Schedule PS-1 and its related service agreement. Processing thereof was held in abeyance pending receipt of the subject application.

After due notice, no protest, petition to intervene or notice of intervention has been filed herein.

At a hearing held on December 21, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Transcontinental Gas Pipe Line Corporation, a Delaware corporation having its principal place of business in Houston, Texas, is a

"natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of April 28, 1950, in Docket No. G-1277 (9 FPC 32).

(2) Natural gas service under Applicant's Rate Schedule PS-1, as hereinbefore described, and as more fully described in the application in this proceeding, involves the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission, and the abandonment of such service is subject to the requirements of Subsection (b) of Section 7 of the Natural Gas Act.

(3) Permission for an approval of the abandonment of natural gas service as proposed by Applicant should be accompanied by the acceptance of Applicant's notices of cancellation of Rate Schedule PS-1 and the related service agreement form, effective as of the date of this order.

(4) The abandonment by Applicant, as hereinbefore described, is permitted by the public convenience and necessity and an order approving same should be issued as hereinafter ordered and conditioned.

The Commission orders:

(A) Permission for and approval of the abandonment by Applicant of the natural gas service hereinbefore described, all as more fully described in the application in this proceeding, are granted.

(B) Applicant's notices of cancellation of Rate Schedule PS-1 and the related service agreement form are accepted, effective as of the date of this order.

Before Commissioners: Lee C. White, Chairman; Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

MONSANTO COMPANY, DOCKET NO. G-18269, ET AL.[1]

ORDER APPROVING RATE SETTLEMENT PROPOSAL, SEVERING AND TERMINATING PROCEEDINGS, AND PRESCRIBING REFUNDS

(Issued December 30, 1966)

There is before us for consideration a Motion for Approval of Settlement Proposal, Termination of Rate Proceedings and for Shortened Procedure Certification, filed on November 15, 1966, and amended on November 22, 1966, by Monsanto Company (Monsanto) encompassing the rates for 77 of its currently effective FPC Gas Rate Schedules.[2] Comments have been filed by some of the parties to these proceedings, all of which have been given due consideration.

In summary, the settlement proposal filed by Monsanto, as amended, provides:

(1) Settlement rates, including tax reimbursement, equal to or less than the Commission's applicable area rate ceilings;

(2) Monsanto waives the right to file for contractually authorized increased rates prior to November 1, 1969, for all of the rate schedules involved in the settlement. However, Monsanto reserves the right to file for any increased

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[1] The additional dockets involved herein are set forth in Appendices A and B attached hereto.

[2] Five of Monsanto's FPC Gas Rate Schedules for sales in the Permian Basin are shown in Appendix A, but were not considered by the parties to the settlement conferences as part of the settlement.

rates, if contractually authorized, up to the applicable area-rate levels established by any order or rule of the Commission, or to file for any contractually authorized increase in tax reimbursement;

(3) Monsanto will delete any favored-nation, price-redetermination or periodic-escalation provisions from its FPC Gas Rate Schedule Nos. 1, 8, 16 and 20 in accordance with the Second and Seventh Amendments to the Commission's Statement of General Policy No. 61-1, 18 CFR 2.56;

(4) Refunds, with interest at the applicable rates, under rate schedules where collection was made subject to refund, of the difference between the revenues actually collected and those collectable at the settlement rate, in each instance, commencing with January 1, 1965, to the date of issuance of this order, for all of Monsanto's rate schedules, excepting those for its sales of natural gas in the Permian Basin which were excluded from the proposed settlement.

In support of its proposal, Monsanto states that the settlement rates, refunds, the moratorium period, and other provisions thereof not specifically noted herein, are in the public interest in that they are reasonable and will provide price stability for a long period of time for natural gas moving in interstate commerce.

With respect to refunds, the parties to the settlement conferences utilized cost-of-service studies and revenues based on effective rates to determine Monsanto's revenue-cost relationship. These studies indicate that it is appropriate that we require that refunds should be computed for sales where monies were collected subject to refund on and after January 1, 1965, as hereinafter ordered. Such refunds will approximate $142,000, inclusive of applicable interest computed to November 1, 1966, which approximates 74% of the monies collected subject to refund above the settlement rates. For all the reasons stated in our order in *Humble Oil & Refining Company*, Docket No. G-9287, *et al.*, 32 FPC 49, we shall order Monsanto to retain the amounts of refunds ordered herein until further action by the Commission directing their disposition; except, however, those refund monies due and owing Panhandle Eastern Pipe Line Company, Southern Union Gathering Company, and Southern Natural Gas Company, may be paid as hereinafter ordered since the amounts concerned are *de minimis.*

Monsanto's presently effective rates will be reduced under the settlement proposal so as to effectuate an annual reduction of approximately $100,000 in its jurisdictional revenues.

The settlement proposal includes rates for which issuance of related permanent certificates is pending, some of which are for deliveries presently being made under temporary authority. We propose to set the application in Docket No. CI62-347 for abridged statutory hearing in accordance with Section 7 of the Natural Gas Act, indicating that the settlement rate, as provided for herein, shall be the initial price. Included among the pending certificate applications are four sales which are presently involved in court review. They are Monsanto's Rate Schedule Nos. 52, 53 and 56, (consolidated with Sinclair Oil & Gas Company, *et al.*, Docket No. G-16760, *et al.*) and Rate Schedule No. 44 (consolidated with Amerada Petroleum Corporation, *et al.*, Docket No. CI62-1544, *et al.*). Monsanto proposes that the settlement for these sales shall be subject to the final disposition of said proceedings whether after court review or otherwise.

Our action herein should not be construed as constituting approval of future rate increases, if any, that may be filed under the subject rate schedules, and is without prejudice to any findings or orders of the Commission in pending or future proceedings, including area rate or similar proceedings, involving Monsanto's rates and rate schedules.

The Commission finds:

The proposed settlement of the subject proceedings on the basis described herein, as more fully set forth in the Settlement Proposal filed by Monsanto on November 15, 1966, and amended on November 22, 1966, is in the public interest and it is appropriate in carrying out the provisions of the Natural Gas Act, that it be approved and made effective as hereinafter ordered, and good cause exists for approving the settlement rates, for severing and terminating certain proceedings and providing for refunds.

The Commission orders:

(A) The settlement of these proceedings on the basis of the settlement proposal, filed by Monsanto on November 15, 1966, and amended on November 22, 1966, is approved.

(B) The applicable settlement rates set out in Appendix A hereto are approved, and such rates shall be effective as of November 1, 1966.

(C) The approved settlement rates shall be applicable during the moratorium period herein provided for all sales of natural gas from all acreage dedicated as of the date of issuance of this order under each of the rate schedules currently on file with the Commission whether such sales are made by Monsanto, its successors or assignees.

(D) Monsanto shall compute the difference between the rates collected subject to refund and the related settlement rates or rates not subject to refund, whichever rate is the greater, for the period from January 1, 1965, to the date of this order, together with interest as specified in each docket to November 1, 1966. Monsanto shall within 45 days from the date of this order submit a report to the Commission, and serve a copy on each of the purchasers involved, setting out by purchasers the amount of refunds related to each rate schedule (showing separately the principal and applicable interest), the bases used for such determination and the periods covered.

(E) Monsanto shall retain the amounts shown in the report required under paragraph (D) above, subject to further action of the Commission directing the disposition of those amounts, *provided, however*, Monsanto shall within 90 days from the date of this order, (1) refund with interest as specified in each docket computed to November 1, 1966, the difference between rates collected subject to refund and the related settlement rates, on and after January 1, 1965, to the date of this order for all of such of Monsanto's Rate Schedules, where the rates were collected subject to refund for sales of natural gas to Panhandle Eastern Pipe Line Company, Southern Union Gathering Company, and Southern Natural Gas Company, and (2) report to the Commission in writing, the amount of refunds made to Panhandle Eastern Pipe Line Company, Southern Union Gathering Company, and Southern Natural Gas Company, showing separately the amount of principal and interest so paid, and the basis used for such determination, together with releases from its purchasers showing receipt of the refunds in conformity with the settlement proposal as approved herein.

(F) If Monsanto elects to commingle these retained refunds with its general assets and use them for its corporate purposes, it shall pay interest thereon at the rate of 6% per annum on all funds thus available from March 20, 1967, to the date on which they are paid over to the person ultimately determined to be entitled thereto by final action of the Commission.

(G) If Monsanto elects to deposit the retained refunds in a special escrow account, Monsanto shall tender for filing on or before, March 20, 1967, an executed Escrow Agreement, conditioned as set out below, accompanied by a certificate showing service of a copy thereof upon each of its jurisdictional customers. Unless notified to the contrary by the Secretary within 30 days from the date of filing thereof, the Escrow Agreement shall be deemed to be satisfactory and to have been accepted for filing. The Escrow Agreement shall be entered into between Monsanto and any bank or trust company used as a depository for funds of the United States Government and the Agreement shall be conditioned as follows:

(1) Monsanto, the bank or trust company, and the successors and assigns of each, shall be held and formally bound unto the Federal Power Commission for the use and benefit of those entitled thereto, with respect to all amounts and the interest thereon, deposited in a special escrow account, subject to such Agreement, and such bank or trust company shall be bound to pay over to such person or persons as may be identified and designated by final order of the Commission and in such manner as may be therein specified, all or any portion of such deposits and the interest thereon.

(2) The bank or trust company may invest and reinvest such deposits in any short-term indebtedness of the United States or any agency thereof, or in any form of obligation guaranteed by the United States which is, respectively, payable within 120 days as the said bank or trust company in the exercise of its sound discretion may select.

(3) Such bank or trust company shall be liable only for such interest as the invested funds described in Paragraph (2) above will earn and no other interest may be collected from it.

(4) Such bank or trust company shall be entitled to such compensation as is fair, reasonable and customary for its services as such, which compensation shall be paid out of the escrow account to such bank or trust company. Said bank or trust company shall likewise be entitled to reimbursement for its reasonable expenses necessarily incurred in the administration of this escrow account, which reimbursement shall be made out of the escrow account.

(5) Such bank or trust company shall report to the Secretary quarterly, certifying the amount deposited in the trust account for the quarterly period.

(H) The pending certificate proceeding in Docket No. CI62–347 shall not be determined on the basis of the approval of the settlement proposal, but shall be determined after hearing in accordance with Section 7 of the Natural Gas Act.

(I) Within 90 days from the date of this order, Monsanto shall make such filings under its rate schedules as are required to make effective the terms of the settlement proposal.

(J) Upon full compliance by Monsanto with all the terms and provisions of this order, the Section 4(e) proceedings listed in Appendix A hereto, shall terminate.

(K) Upon termination of the Section 4(e) proceedings listed in Appendix B hereto, in accordance with Paragraph (J) above, said proceedings shall be severed from the consolidated proceedings in Docket Nos. AR61–2, AR64–1, and AR64–2, respectively.

(L) This order is without prejudice to any findings or orders which have been or any which will be made hereafter by the Commission, and is without prejudice to claims or contentions which may be made by Monsanto, the Commission staff, or any affected party hereto, in any proceedings now pending, including area rate or similar proceedings, or hereafter instituted by or against Monsanto or any other companies, persons, or parties affected by this order.

APPENDIX A

MONSANTO COMPANY FPC GAS RATE SCHEDULES (DOCKET NO. G-18269, ET AL.)

Purchaser (a)	Field (b)	FPC R.S. (c)	Certificate Docket Nos. (d)	Last firm rate[1] (e)	4(e) Docket Nos. (f)	4(e) Rate[1] (g)	Settlement rate[1] (h)
Texas Railroad District No. 2 (at 14.65 psia)							
Tennessee Gas Pipeline Company, a Division of Tenneco Inc.	Placedo	6	G-6037	11.02818	G-18269 RI64-281	15.3333 18.0	14.0
United Gas Pipe Line Company	E. McFaddin	16	G-11230	14.6	RI63-334	15.6	[2] 15.0
Lone Star Gathering Company	Criswell	52	CI62-824	[3] 16.0			[3] 16.0
Do	Belitz	53	CI62-889	[3] 16.0			[3] 16.0
Do	do	56	CI63-58	[3] 16.0			[3] 16.0
Texas Eastern Transmission Corporation	N. Brandt	59	CI63-1373	10.0			10.0
Do	N.W. Brandt	60	CI63-1577	10.0			10.0
Tennessee Gas Pipeline Company, a Division of Tenneco Inc.	Cologne	68	G-9353	15.0			15.0
Texas Eastern Transmission Corporation	Pena	79	CI65-94	10.0			10.0
Texas Railroad District No. 3 (at 14.65 psia)							
Texas Gas Pipe Line Corporation	Big Hill	61	G-9319	15.0			15.0
Natural Gas Pipeline Company of America	Old Ocean	65	G-9358	11.4	RI67-164	14.0	[4] 14.0
Tennessee Gas Pipeline Company, a Division of Tenneco Inc.	E. Bay City	67	G-9350	15.0			15.0
Do	Lissie	69	G-9360	15.0			15.0
Do	Chesterville	70	G-9354	15.0			15.0
Do	Decker's Prairie	73	G-17499	15.0			15.0
Texas Railroad District No. 4 (at 14.65 psia)							
Tennessee Gas Pipeline Company, a Division of Tenneco Inc.	Sullivan City	8	G-10192	12.12268	RI60-280	15.0952	[2] [5] 15.0
Do	El Ebanito	44	CI61-876	[6] 16.0			[6] 16.0
Do	do	45	CI61-990	14.6	RI65-251	15.6	14.6
Do	LaGloria	62	G-9355	15.0			15.0
Do	E. Alice	63	G-9351	15.0			15.0
Natural Gas Pipeline Company of America	LaGloria	64	G-9357	10.819792			10.819792
Transcontinental Gas Pipe Line Corporation	do	66	G-9356	[7] 11.0 [8] 12.0 [9] 13.0			[7] 11.0 [8] 12.0 [9] 13.0

See footnotes at end of table.

APPENDIX A—continued

MONSANTO COMPANY FPC GAS RATE SCHEDULES (DOCK'.T NO. G-18269, ET AL.)

Purchaser (a)	Field (b)	FPC R.S. (c)	Certificate Docket Nos. (d)	Last firm rate[1] (e)	4(e) Docket Nos. (f)	4(e) Rate[1] (g)	Settlement rate[1] (h)
Texas Railroad District No. 6 (at 14.65 psia)							
United Gas Pipe Line Company	Joaquin	15	G-10721	10.8188			10.8188
Do	Maydelle	46	CI61-1077	10.8876			10.8876
Permian Basin-Texas Railroad District No. 8 (at 14.65 psia)							
El Paso Natural Gas Company	Dollarhide	5	G-6036	[10] 14.5			[10] [11] 14.5
Do	Wyatt Ellenburger	12	G-10679	[10] 14.22			[10] [11] 14.22
Transwestern Pipeline Company	Worsham	39	G-15318	[10] 14.4			[10] [11] 14.4
Texas Railroad District No. 10 (at 14.65 psia)							
Northern Natural Gas Company	Upper Morrow	37	G-19965	16.5	RI65-528	17.5	16.5
Transwestern Pipeline Company	Brillhart Morrow	41	CI61-94	17.0	RI66-49	19.5	17.0
Do	Dude Wilson Morrow	43	CI61-713	[12] 17.0	RI66-49	[12] 19.5	[12] 17.0
Northern Natural Gas Company	Hansford Morrow	48	CI61-1778	17.0	RI66-268	18.0	17.0
Oklahoma Panhandle (at 14.65 psia)							
Colorado Interstate Gas Company	Mocane and N.E. Forgan	18	G-11600	[13] 15.72	RI62-409	[13] 16.77	[13] 15.72
Northern Natural Gas Company	Fincham	27	G-14799	[13] 16.36	RI62-496	[13] 17.46	[13] 16.36
Do	Glenwood	29	G-15290	[13] 16.97	RI62-424	[13] 18.1	[13] 16.97
Michigan Wisconsin Pipe Line Company	Laverne	30	G-17260	[12] 17.0	RI64-311	[12] 19.5	[12] 17.0
Northern Natural Gas Company	Fincham	49	CI61-1777	[13] 16.3	RI62-424	[13] 17.39	[13] 16.3
Do	Beaver City	55	CI63-25	17.0			17.0
Do	Hansford Upper Morrow	76	CI64-767	17.0			17.0
Panhandle Eastern Pipe Line Company	Acreage in Cimarron Co., Oklahoma.	77	CI64-1275	17.0			17.0
Oklahoma Other (at 14.65 psia)							
Arkansas Louisiana Gas Company	S. Hunter	17	G-11393	11.0			11.0
Lone Star Gas Company	N. Dibble S.E. Boyle Areas.	78	CI64-1392	15.0			15.0
Arkansas Louisiana Gas Company	Arkoma Area	85	CI67-286	15.0			15.0
Panhandle Eastern Pipe Line Company	N.E. Waynoka	86	CI67-357	(14)			[14] 15.0

Kansas (at 14.65 psia)							
Panhandle Eastern Pipe Line Company	Bond	21	G-11888	[18] 15.0	RI62-316	[18] 16.0	[18] 15.0
Northern Natural Gas Company	Fincham	23	G-12639	[13] 16.49	RI62-440	[13] 17.58	[13] 16.49
Panhandle Eastern Pipe Line Company	Singley	13	G-10797	16.0	RI62-35 RI67-37	17.0 18.0	16.0
Permian Basin-New Mexico (at 14.65 psia)							
Natural Gas Pipeline Company of America	Dagger Draw	81	CI65-531	[11] [16] 16.579			[11] [16] 16.579
Do	Indian Basin	82	CI65-525	[11] [16] 16.608			[11] [16] 16.608
Aneth Area (at 15.025 psia)							
El Paso Natural Gas Company	McElmo Mesa	84	CI67-123	17.7			17.7
Colorado (at 15.025 psia)							
Mountain Fuel Supply Company	Hiawatha	25	G-13801	13.0			13.0
El Paso Natural Gas Company	Flodine Park	51	CI62-347	[17] 17.7			15.0
Kansas-Nebraska Natural Gas Company, Inc	Bijou South	57	CI63-217	12.0			12.0
Baca Gas Gathering System, Inc	Flank	80	CI65-225	12.0			12.0
San Juan-New Mexico (at 15.025 psia)							
El Paso Natural Gas Company	Basin Dakota	26	G-14717	[19] 13.0	RI64-281	[19] 14.0	[21] 13.0
Do	do	32	G-17969	[19] 13.0	RI64-281	[19] 14.0	[21] 13.0
Do	do	34	G-18374	12.0			12.0
Southern Union Gathering Company	Blanco	35	G-18666	13.0	RI65-532	14.0	13.0
El Paso Natural Gas Company	Bisti	38	G-20326	13.0	RI64-281	14.0	13.0
Do	Flora Vista	50	CI62-131	[19] 13.0	RI64-281	[19] 14.0	[21] 13.0
Mississippi (at 15.025 psia)							
Southern Natural Gas Company	Kokomo	54	CI63-249	20.6			20.6
United Gas Pipe Line Company	Baxterville	71	G-9361	14.0			14.0
North Louisiana (at 15.025 psia)							
Texas Eastern Transmission Corporation	Bryceland	1	G-6043	15.8007	G-19258 RI61-265 RI62-148 RI63-156 RI64-170 RI65-251 RI66-268	16.0058 16.2110 16.4161 16.6212 16.8263 17.0314 17.2366	[3] 16.7756
Do	Delhi	2	G-6040	15.6814	G-19258 RI66-264	[19] 14.6658 [19] 15.8866	[19] 15.75

See footnotes at end of table.

APPENDIX A—continued

MONSANTO COMPANY FPC GAS RATE SCHEDULES (DOCKET NO. G-18269, ET AL.)

Purchaser *North Louisiana (at 15.025 Psia)* (a)	Field (b)	FPC R.S. (c)	Certificate Docket Nos. (d)	Last firm rate[1] (e)	4(e) Docket Nos. (f)	4(e) Rate[1] (g)	Settlement rate[1] (h)
Mississippi River Fuel Corporation*	Hico-Knowles	3	G-6041	14.1540			14.1540
Arkansas Louisiana Gas Company	Sligo	7	G-8982	7.5			7.5
Do	North Ruston	9	G-10287	13.72			13.72
Do	do	10	G-10286	13.72			13.72
Do	do	11	G-10509	13.72			13.72
Southern Natural Gas Company	Bear Creek	14	G-10774	11.25			11.25
Arkansas Louisiana Gas Company	Ada	19	G-11688	11.1333			11.1333
Texas Eastern Transmission Corporation	Logansport	20	G-11787	15.8007	G-19259 RI61-266 RI62-147 RI63-157 RI64-171 RI65-256 RI66-269	16.0058 16.2110 16.4161 16.6212 16.8263 17.0314 17.2366	[2] 16.7756
Arkansas Louisiana Gas Company	Darley	22	G-12330	12.1667			12.1667
Do	Colquitt	24	G-13348	13.4533			13.4533
United Gas Pipe Line Company	Ada	31	G-17519	18.25	RI64-560	21.75	18.25
Texas Gas Transmission Corporation	Calhoun	40	CI61-27	18.75			18.75
Do	Bernice and Hico-Knowles	42	CI61-604	18.25			18.25
Do	Cheniere	83	CI66-491	18.25			18.25
Arkansas Louisiana Gas Company	Clay Area	87	CI67-535				[23] 18.3333
South Louisiana (at 15.025 psia)							
United Gas Pipe Line Company	Broussard	28	G-14874	20.25	RI63-157	22.25	20.25
Transcontinental Gas Pipe Line Corporation	Cowpen Creek	72	G-15114	17.5			17.5
Do	do	74	G-18903	11.3			11.3
Southern Natural Gas Company	Franklin	75	CI60-258	20.625			20.625

*Now Mississippi River Transmission Corporation.

[1] All rates expressed in cents per Mcf at the pressure base shown for Commission pricing area in which each field is located. All rates include applicable tax reimbursement and are subject to BTU adjustment as provided in various contracts.

[2] Settlement rate at the area rate for increased rates under §§ 2.56(b)(1) and 2.56(c)(1) of the Statements of General Policy and Interpretations under the Natural Gas Act. Where necessary, contract term will be extended so that contract will remain in effect a minimum of 5 years from date of settlement herein.

[3] Rate subject to outcome of judicial review of Opinion No. 476, 34 FPC 930, *Sinclair Oil & Gas Company, et al.*, Docket No. G–16760, *et al.*, now pending in *P.S.C. of New York* v. *F.P.C.*, D.C. Cir. No. 19800, *et al.*

[4] Redetermined rate contractually authorized by Letter Agreement dated Aug. 22, 1966, filed as supplement to Rate Schedule No. 65 to be effective Dec. 2, 1966, pursuant to notice of change dated Oct. 21, 1966.

[5] Includes 1.5¢ compression charge and 2.0¢ transportation charge.

[6] Rate subject to outcome of judicial review of Opinion No. 422, 31 FPC 623, *Amerada Petroleum Corporation, et al.*, Docket No. CI62–1544, *et al.*, now pending in *Sunray DX Oil Co., et al.* v. *F.P.C.*, 10th Cir. No. 7781, *et al.* Decision issued Dec. 9, 1966.

[7] No compression or compression by Buyer.

[8] Compression by Buyer if Seller operates Buyer's compressors.

[9] Compression by Seller's compressors.

[10] Applicable Permian Basin area rate for Texas Railroad District No. 8 pursuant to Opinion Nos. 468 and 468–A, 34 FPC 159, 1968.

[11] Moratorium until Jan. 1, 1968, pursuant to Paragraph (H) of order accompanying Opinion No. 468.

[12] Subject to upward and downward BTU adjustment pursuant to Opinion No. 464, 33 FPC 1228.

[13] Includes upward BTU adjustment.

[14] Initial contract price is 17.0¢. Monsanto reserves right to file up to area rate for new gas if area boundary between Oklahoma Other and Oklahoma Panhandle areas is changed prior to Nov. 1, 1969.

[15] Includes 0.5¢ dehydration reimbursement.

[16] Adjusted base area rate for Permian Basin New Mexico area pursuant to Opinion Nos. 468 and 468–A.

[17] Sale now made pursuant to conditioned temporary authorization.

[18] Includes 1.0¢ minimum for liquids.

[19] Excludes 1.35¢ handling charge.

[20] Subject to reduction for compression and/or treating costs if required.

[21] Plus Seller's share of actual liquids.

APPENDIX B

MONSANTO COMPANY (DOCKET NO. G-18269, ET AL.)

Section 4(e) Dockets Severed From Consolidated Area Proceeding Docket Nos. AR61-2, AR64-1, and AR64-2

AR61-2:	AR64-1:	AR64-2:
RI63-157	RI62-35	G-18269
	RI62-316	RI60-280
	RI62-400	RI63-334
	RI62-424	RI64-281
	RI62-440	
	RI62-496	
	RI64-311	

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

NATURAL GAS PIPELINE COMPANY OF AMERICA, DOCKET NO. CP66-169 (PHASE II)

FINDINGS AND ORDER AFTER STATUTORY HEARING ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued December 30, 1966)

On December 1, 1965, Natural Gas Pipeline Company of America (Applicant) filed in Docket No. CP66-169 an application, as supplemented on March 17, April 7 and November 23, 1966, pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction during 1966 and 1967 and operation of natural gas transmission and storage facilities and the sale and delivery of natural gas for resale, all as more fully set forth in the application, as supplemented, in this proceeding.

The Commission's order of May 27, 1966, 35 FPC 828, issued in the subject docket divided the proceedings on Applicant's application into two phases: The 1966 proposals were designated Phase I and the 1967 proposals were designated Phase II. The order of May 27, 1966, also issued a certificate of public convenience and necessity authorizing the Phase I proposals and postponed consideration of the Phase II proposals until determination of Applicant's proposal to procure Texaco Inc. or other gas in lieu thereof. On October 20, 1966, Texaco filed an application in Docket No. CI67-505 for authorization to sell natural gas to Applicant pursuant to a contract between the two parties dated October 18, 1966. Said contract provides for the purchase of 1.4 billion Mcf of gas. On November 18, 1966, Texaco was issued a temporary certificate in Docket No. CI67-505 which it accepted on December 12, 1966. By order issued December 6, 1966, *supra*, p. 986, in Docket No. CP66-170, Natural was authorized to construct and operate the facilities necessary to take the gas which the temporary certificate authorized Texaco to sell. Accordingly, it now appears that the Phase II proposals in the instant docket may now be authorized.

In Phase II Applicant's customers' have executed precedent agreements to purchase 94,651 Mcf of gas per day of the proposed 156,000[1] Mcf per day increase in pipeline capacity. All of the proposed 78,000[2] Mcf increase in peak-day storage delivery capacity has been committed to customers. These precedent agreements state that the customers will execute service agreements to purchase the added contract volumes effective December 1, 1967. In the Phase II expansion 61,349 Mcf per day of pipeline capacity is unallocated. As a consequence of Phase I, Applicant currently has 8,053 Mcf of unallocated capacity of which 1,661 Mcf has been requested by customers in pending applications.[3] In addition, Applicant has filed letters with the Commission from Illinois Power Company and Peoples Gas Light and Coke Company requesting an additional 15,000 Mcf and 25,000 Mcf per day, respectively. Assuming the pending applications and customer requests will be granted, Applicant will have 27,741 Mcf or approximately 0.7 percent of its system capacity unallocated after certification of the proposed Phase II facilities.

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[1] 150,000 Mcf at 1,040 Btu converted to 1,000 Btu sales basis.

[2] 75,000 Mcf at 1,040 Btu converted to 1,000 Btu sales basis.

Specifically, Applicant proposes to sell and deliver additional daily contract quantities, or maximum daily quantities, of natural gas to resale customers as follows:

Customer	*Mcf at 1,000 Btu per cubic foot and 14.65 psia*
Rate Schedule CD–1:	
Associated Natural Gas Co	144
Central Illinois Electric & Gas Co	6, 000
Illinois Power Co	5, 000
Interstate Power Co	600
Iowa Ill. Gas & Electric Co	5, 300
Iowa Power & Light Co	99
Iowa Southern Utilities Co	39
North Shore Gas Co	4, 000
Northern Illinois Gas Co	50, 000
Northern Ind. Public Service Co	20, 000
Princeton Gas Co	332
Wisconsin Southern Gas Co	2, 277
Total CD–1	93, 791

Customer	*Mcf at 1,000 Btu per cubic foot and 14.65 psia*
Rate Schedule G–1:	
American Gas Co	235
Central Illinois Public Service Co	50
Monarch Gas Co	75
City of Perryville, Mo	160
City of Pichneyville, Illinois	130
United Cities Gas Co	210
Total G–1	860
Total	94, 651

Applicant proposes to allocate additional storage withdrawal capacity to its customers in accordance with the procedure of allocation set forth in its FPC Gas Tariff, Second Revised Volume No. 1, Rate Schedule S–1. The additional maximum withdrawal quantities which will result from the application of the tariff allocation procedure are as follows:

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[3] Docket Nos. CP67–136 and CP67–137.

Customer	*Mcf at 1,000 Btu per cubic foot and 14.65 psia*
Allied Gas Co	459
Associated Natural Gas Co	102
Central Illinois Electric & Gas Co	3,026
Illinois Power Co	1,857
Interstate Power Co	400
Iowa Electric Light & Power Co	1,470
Iowa Ill. Gas & Electric Co	7,113
Iowa Power & Light Co	637
Iowa Southern Utilities Co	291
North Shore Gas Co	3,164
Northern Illinois Gas Co	26,301
Northern Ind. Public Service Co	9,626
Peoples Gas Light & Coke Co	22,441
Princeton Gas Co	143
City of Sullivan, Illinois	79
Wisconsin Southern Gas Co	726
City of Nebraska City, Nebraska	165
Total	78,000

Transmission facilities proposed for 1967 consist of 236.07 miles of 36-inch loop and 14,500 horsepower of compression on Applicant's Gulf Coast-Chicago mainline. Cost of these facilities is estimated to be $38,816,000. Additional storage facilities to be constructed in the Cairo, Herscher and Keota storage fields consist of 20 injection-withdrawal wells, 3.66 miles of various size pipeline and 2,320 horsepower of compression. The 1967 storage facilities are estimated to cost $3,037,000. The total cost of transmission and storage facilities is estimated to be $41,853,000.

The proposed facilities will be financed initially through short-term bank loans and loans from Applicant's parent, The Peoples Gas Light and Coke Company. Permanent financing will be through the issuance of first mortgage bonds, debentures and preferred stock.

After due notice, several petitions to intervene in support of the application have been filed herein. No other petitions to intervene, notices of intervention or protest to the granting of the application have been received.

At a hearing held on December 29, 1966, the Commission on its own motion received and made a part of the record in this proceeding (Phase II) all evidence, including the application, as supplemented, and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Natural Gas Pipeline Company of America, a Delaware corporation having its principal place of business in Chicago, Illinois, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission in its order of October 13, 1942, in Docket No. G-235 (3 FPC 830).

(2) The facilities hereinbefore described, as more fully described in the application in this proceeding (Phase II), are proposed to be used in the transporta-

tion and sale of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof and the transportation and sale of natural gas by Applicant are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The construction and operation of the proposed facilities (Phase II) and the proposed transportation and sale of natural gas (Phase II) by Applicant are required by the public convenience and necessity, and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) Public convenience and necessity require that the certificate issued hereinafter and the rights granted thereunder should be conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c) and (e) of Section 157.20 of such Regulations.

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Applicant, Natural Gas Pipeline Company of America, to construct and operate the proposed facilities and transport and sell natural gas as hereinbefore described, all as more fully described in the application, as supplemented, in this proceeding (Phase II), upon the terms and conditions of this order.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (b), (c) and (e) of Section 157.20 of such Regulations.

(C) The facilities authorized shall be constructed and placed in actual operation and the transportation and sale of natural gas authorized in paragraph (A) above shall commence, as provided by paragraph (b) of Section 157.20 of the Regulations under the Natural Gas Act, within one year from the date on which this order issues.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

TEXAS EASTERN TRANSMISSION CORPORATION, DOCKET NO. CP64-5

ORDER AMENDING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(Issued December 30, 1966)

On November 8, 1966, Texas Eastern Transmission Corporation (Petitioner) filed in Docket No. CP64-5 a petition to amend the order issued in said docket on December 19, 1963, 30 FPC 1559, and amended on October 28, 1964, 32 FPC 1229, April 5, 1965, 33 FPC 699, and August 24, 1965, 34 FPC 572. By the instant filing, petitioner seeks authorization to sell and deliver an additional 25,909 Mcf of gas per day, on a firm basis, to the East Ohio Gas Company, The Peoples Natural Gas Company, The River Gas Company, and the Consolidated Gas Supply Corporation (collectively referred to as the Consolidated Gas Companies), pursuant to a joint service agreement between said companies and Petitioner, and an additional 1,224 Mcf of gas per day to the City of Somerset, Kentucky, all as more fully set forth in the petition to amend.

The proposed additional sales represent less than one percent of Petitioner's overall requirements and can be made from existing and previously authorized facilities.

The additional deliveries to the Consolidated Gas Companies will be made under Petitioner's Rate Schedule DCQ–C and the additional deliveries to the City of Somerset under Petitioner's Rate Schedule GS–C. Petitioner has entered into precedent agreements for the proposed additional volumes with each of the aforementioned companies.

The Consolidated Gas Companies, by written agreement, have informed Petitioner that they are willing to have the incremental 25,909 Mcf of gas per day curtailed on any given day during the winter months of January, February, and March 1967, if necessary in order for Petitioner to meet its system firm requirements. In November 1967, some 73,442 Mcf of gas per day will become available to Petitioner as a result of the completion of its 4-year expansion program and from the termination of limited term sales. This will permit service of the subject volumes of natural gas from Petitioner's system design capacity.

After due notice, no protest, petition to intervene, or notice of intervention has been filed herein.

The Commission finds:

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the certificate of public convenience and necessity heretofore issued in Docket No. CP64–5, as amended, be amended further as hereinafter ordered.

The Commission orders:

(A) The certificate of public convenience and necessity issued to Texas Eastern Transmission Corporation by the Commission on December 19, 1963, and amended on October 28, 1964, April 5, 1965, and August 24, 1965, is amended further by authorizing an increase of 25,909 Mcf of gas in firm daily deliveries to the Consolidated Gas Companies under Rate Schedule DCQ–C and an increase of 1,224 Mcf of gas in firm daily deliveries to the City of Somerset, Kentucky, under Rate Schedule GS–C, as hereinbefore described and as more fully described in the petition to amend.

(B) Applicant shall file appropriate revised service agreements reflecting the increased volumes authorized herein.

(C) In all other respects the subject certificate shall remain in full force and effect.

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge and John A. Carver, Jr.

TRANSWESTERN PIPELINE COMPANY, ET AL., DOCKET NO. CP63–204, ET AL. AND EL PASO NATURAL GAS COMPANY, DOCKET NO. CP64–76

ORDER AMENDING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND ACCEPTING SERVICE AGREEMENT FOR FILING

(Issued December 30, 1966)

On November 29, 1966, El Paso Natural Gas Company (El Paso) filed in Docket No. CP63–204, *et al.*, a petition to amend the Commission's order accompanying Opinion No. 500, issued July 26, 1966, as corrected August 19, 1966, 36

FPC 176, 491, in said dockets so as to authorize El Paso to commence on January 1, 1967, the delivery of the total additional daily quantity of 250,000 Mcf of natural gas authorized by said order to be sold and delivered to Southern California Gas Company and Southern Counties Gas Company of California (jointly Southern), all as more fully set forth in the petition to amend in this proceeding.

The order of July 26, 1966, among other things, authorized El Paso in Docket No. CP64–76 to construct and operate certain facilities and to sell and deliver additional daily quantities of natural gas to Southern. Said order authorized the delivery of a total additional daily quantity of 250,000 Mcf. The order provided that El Paso deliver the additional maximum quantities of gas per day as follows: commencing with the issuance of the order of July 26, 1966, 150,000 Mcf per day; commencing November 1, 1966, 200,000 Mcf per day, and commencing November 1, 1967, 250,000 Mcf per day.

El Paso states that Southern has requested that the delivery of the total authorized additional quantities of 250,000 Mcf per day to commence January 1, 1967. The petition indicates that Southern has made this request because of the anticipated inability of Transwestern Pipeline Company to complete before March 1, 1967, the facilities necessary to deliver the contract demand quantity of 640,000 Mcf per day authorized by the order of July 26, 1966, and because of its need for gas to meet the 1966–67 heating season requirements.

Concurrently with the filing of the subject petition, El Paso tendered for filing a service agreement, dated November 23, 1966, providing for the subject proposal.

Due notice of the filing of the petition to amend and opportunity for hearing thereon has been given by publication in the Federal Register on December 13, 1966 (31 F.R. 15711). No protest or petition to intervene has been filed in this proceeding.

The Commission finds:

(1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's order accompanying Opinion No. 500, issued July 26, 1966, as corrected August 19, 1966, in Docket No. CP63–204, *et al.*, be amended as hereinafter ordered.

(2) El Paso's service agreement, dated November 23, 1966, should be accepted for filing to become effective on January 1, 1967.

The Commission orders:

(A) The Commission's order accompanying Opinion No. 500, issued July 26, 1966, as corrected August 19, 1966, in Docket No. CP63–204, *et al.*, is amended so as to authorize El Paso to commence on January 1, 1967, the delivery of the total additional daily quantity of 250,000 Mcf of natural gas authorized by said order to be sold and delivered to Southern, all as hereinbefore described and as set forth in the petition to amend in this proceeding.

(B) El Paso's service agreement, dated November 23, 1966, is accepted for filing to become effective on January 1, 1967.

(C) The question as to whether the rate reduction prescribed in Paragraph (F)(3) of Opinion No. 500 and order issued July 26, 1966, should be made effective as of December 1, 1966, is reserved for future determination.

(D) In all other respects said order accompanying Opinion No. 500, as corrected, shall remain in full force and effect.

Commissioner O'Connor *not participating.*

APPLICATIONS OF PRODUCERS OF NATURAL GAS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY DISPOSED OF DURING THE PERIOD OF JULY 1, 1966 THROUGH DECEMBER 31, 1966; SERVICE BEGINNING SUBSEQUENT TO JUNE 7, 1954

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION[1]
A. L. Abercrombie, Inc., Agent:					
CI67-72 Kansas-Nebraska Natural Gas Co., Inc.	East Camrick	Okla	Beaver	9 19 66	Iss.
Leonard J. Achenbach:					
CI67-638 Cities Service Gas Co.	Hardtner	Kans	Barber	12 21 66	Iss.
Acoma Oil Corp., Operator, et al:					
G-4581 El Paso Natural Gas Co.	Blanco	N. Mex	San Juan	10 7 66	Iss.
G-10419 El Paso Natural Gas Co.	Drinkard	N. Mex	Lea	10 7 66	Iss.
G-13597 Natural Gas Pipeline Co. of America.	Bailey's Prairie	Tex	Brazoria	10 7 66	Iss.
CI60-467 Tennessee Gas Pipeline Co., a Division of Tenneco Inc.	Southeast Tomball	Tex	Harris	10 7 66	Iss.
Robert W. Adams:					
CI66-1186 Consolidated Gas Supply Corp.	Clear Fork District	W. Va	Mingo	8 4 66	Iss.
Adobe Oil Co.:					
CS67-2 Undesignated	Undesignated	Tex	Undesignated	9 27 66	Iss.
Aikman Bros. Corp., Operator, et al.:					
CI67-292 Northern Natural Gas Co.	Six Mile N.W	Okla	Beaver	11 1 66	Iss.
Claud E. Aikman:					
CI67-29 Panhandle Eastern Pipe Line Co.	Hugoton	Kans	Grant	7 26 66	Rej.
CI67-228 Colorado Interstate Gas Co.	Greenwood	Kans	Morton	11 22 66	Iss.
CI67-269 Panhandle Eastern Pipe Line Co.	Hugoton	Kans	Grant	11 1 66	Iss.
CI67-341 Panhandle Eastern Pipe Line Co.	N.W. Tangier Area	Okla	Ellis	11 22 66	Iss.
CI67-507 Panhandle Eastern Pipe Line Co.	N.W. Eva	Okla	Texas	12 20 66	Iss.
CI67-633 Arkansas Louisiana Gas Co.	Cheniere	La	Ouachita	12 21 66	Iss.
CS66-63 El Paso Natural Gas Co.	Noekle NE Queen Sand.	Tex	Crockett	7 20 66	Iss.
Robert E. Aikman, d/b/a A.I.K. Ltd No. 2:					
CI66-1304 Panhandle Eastern Pipe Line Co.	NE Sampsell	Okla	Cimarron	8 15 66	Iss.
CI67-207 Northern Natural Gas Co.	Six Mile	Okla	Beaver	10 26 66	Iss.

See footnotes at end of table, p. 1221.

NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#		FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION [1]
A. S. Alexander, et al.:						
CI67-226	Consolidated Gas Supply Corp.	Injun Gas	W. Va	Gilmer*	11 1 66	Iss.
Allegheny Land & Mineral Co.:						
CI66-1173	Consolidated Gas Supply Corp.	McCellan District	W. Va	Doddridge	8 4 66	Iss.
CI67-169	Carnegie Natural Gas Co.	Cass District*	W. Va	Monongalia	10 17 66	Iss.
M. H. Alvarez:						
CI66-1351	Panhandle Eastern Pipe Line Co.	Undesignated	Okla	Beaver	8 30 66	Iss.
CI67-493	Arkansas Louisiana Gas Co.	Backbone Area	Okla	Le Flore	12 12 66	Iss.
Amax Petroleum Corp.:						
CI67-90	Arkansas Louisiana Gas Co.	Undesignated	Okla	Arkoma Basin	10 17 66	Iss.
Z. C. Ambrose:						
CS66-32	Undesignated	Undesignated	Undesignated.	Undesignated	7 20 66	Iss.
Amerada Petroleum Corp.:						
CI61-1525	Transwestern Pipeline Co.	Undesignated	Okla	Ellis	9 20 66	Iss.
CI61-1528	Transwestern Pipeline Co.	Shattuck	Okla	Ellis	9 20 66	Iss.
CI61-1531	Transwestern Pipeline Co.	Undesignated	Okla	Ellis	9 20 66	Iss.
CI66-1316	Northern Natural Gas Co.	N.E. Catesby	Okla	Ellis	8 30 66	Iss.
CI67-66	Panhandle Eastern Pipe Line Co.	South Peek	Okla	Ellis	10 14 66	Iss.
CI67-351	Panhandle Eastern Pipe Line Co.	N.E. Waynoka Area	Okla	Woods	12 1 66	Iss.
American Petrofina Co. of Texas, et al.:						
G-2947	Texas Eastern Transmission Corp.	Helen Gohlke	Tex	De Witt	9 8 66	Iss.
G-18901	Banquete Gas Co., a Division of Crestmont Oil Co.	Plymouth*	Tex	San Patricio	9 8 66	Iss.
G-19245	Transcontinental Gas Pipe Line Corp.	Greta	Tex	Refugio	9 8 66	Iss.
G-19246	Texas Gas Transmission Corp.	Mallard Bay	La	Cameron	10 17 66	Iss.
CI60-290	Panhandle Eastern Pipe Line Co.	Budde Lease	Kans	Edwards	9 8 66	Iss.
CI60-330	C. V. Lyman	Captain Lucey	Tex	Jim Wells	9 8 66	Iss.
CI60-331	Associated Oil & Gas Co.	Agua Dulce	Tex	Nueces	9 8 66	Iss.
CI60-484	Texas Gas Transmission Corp.	Mallard Bay	La	Cameron Parish.	9 8 66	Iss.
CI61-519	Tennessee Gas Pipeline Co., a Division of Tenneco Inc.	Stratton	Tex	Nueces	9 8 66	Iss.
CI61-1106	Cities Service Gas Co.	Various	Kans	Barber*	9 8 66	Iss.
CI61-1107	Cities Service Gas Co.	Aetna	Kans	Barber	9 8 66	Iss.

See footnotes at end of table, p. 1221.

NEW SERVICE CERTIFICATES—Continued

PRODUCER‡, DOCKET NO. AND PURCHASER‡		FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION[1]
American Petrofina Co. of Texas, et al.—Continued						
CI61-1108	Cities Service Gas Co.	Rhodes South	Kans	Barber	9 8 66	Iss.
CI61-1109	Cities Service Gas Co.	Rhodes South	Kans	Barber	9 8 66	Iss.
CI61-1110	Cities Service Gas Co.	Rhodes South	Kans	Barber	9 8 66	Iss.
CI61-1586	United Gas Pipe Line Co.	Cabeza Creek Area	Tex	Goliad	9 8 66	Iss.
CI63-369	Tennessee Gas Pipeline Co., a Division of Tenneco Inc.	West Magnolia City	Tex	Jim Wells	9 8 66	Iss.
CI63-402	Lone Star Gas Co.	Katie East Hoxbar	Okla	Garvin	9 8 66	Iss.
CI66-1097	Arkansas Louisiana Gas Co.	Milton	Okla	Haskell	9 8 66	Iss.
CI66-1102	Banquete Gas Co., a Division of Crestmont Oil Co.	Plymouth	Tex	San Patricio	9 8 66	Iss.
C. B. Ames, d/b/a Ames Oil & Gas:						
CI67-540	Texas Gas Transmission Corp.	Mortons Gap	Ky	Hopkins	12 20 66	Iss.
Anadarko Production Co.:						
G-12721	Texas Gas Transmission Corp.	South Elton	La	Jefferson	12 1 66	Iss.
CI66-1144	Panhandle Eastern Pipe Line Co.	Undesignated	Kans	Stevens	7 11 66	Iss.
CI66-1147	Panhandle Eastern Pipe Line Co.	Light Gas Area—Chezone.	Okla	Beaver	7 11 66	Iss.
CI66-1148	Cities Service Gas Co.	Southwest Waynoka	Okla	Woodward	7 11 66	Iss.
CI66-1301	Panhandle Eastern Pipe Line Co.	Massoni	Kans	Seward	8 15 66	Iss.
CI67-449	Northern Natural Gas Co.	Northwest Perryton	Tex	Ochiltree	12 6 66	Iss.
CI67-518	Colorado Interstate Gas Co.	Keyes	Okla	Cimarron	12 12 66	Iss.
An-Son Corp., Operator, et al.:						
CI66-1235	Northern Natural Gas Co.	Northeast Holland	Okla	Beaver	8 4 66	Iss.
CI66-1266	Northern Natura Gas Co.	Mocane-Laverne	Okla	Beaver	8 10 66	Iss.
CI67-1	Northern Natural Gas Co.	Northwest Lovedale	Okla	Harper	8 30 66	Iss.
CI67-6	Northern Natural Gas Co.	Northeast Tangier	Okla	Ellis	8 22 66	Iss.
CI67-12	Panhandle Eastern Pipe Line Co.	Mocane-Laverne	Okla	Beaver	8 12 66	Rej.
CI67-57	Michigan Wisconsin Pipe Line Co.	Lovedale	Okla	Harper	9 8 66	Iss.
CI67-191	Arkansas Louisiana Gas Co.	North McCurtain	Okla	Haskell	10 26 66	Iss.
CI67-234	Carnegie Natural Gas Co.	Union District	W. Va	Ritchie	10 26 66	Iss.
CI67-665	Arkansas Louisiana Gas Co.	North Drummond Area:	Okla	Garfield	12 27 66	Rej.

See footnotes at end of table, p. 1221.

NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION [1]
Bruce Anderson:					
CI67-349 Panhandle Eastern Pipe Line Co.	South Peek Area	Okla	Ellis	11 22 66	Iss.
Harold H. Anderson, et al.:					
CI64-789 Panhandle Eastern Pipe Line Co.	Undesignated	Okla	Woods	12 21 66	Iss.
W. R. Anderson, Trustee:					
CI66-1348 Texas San Juan Oil Corp.	Miller*	Tex	Jim Wells	8 22 66	Iss.
Apache Corp.:					
G-18020 Transwestern Pipeline Co.	Undesignated	Tex	Ochiltree*	9 20 66	Iss.
CI60-624 Transwestern Pipeline Co.	Undesignated	Tex	Ochiltree	9 20 66	Iss.
CI61-1521 Transwestern Pipeline Co.	Undesignated	Okla	Beaver	9 20 66	Iss.
CI66-1281 Transwestern Pipeline Co.	Mammoth Creek SW	Tex	Lipscomb	8 4 66	Iss.
Ard Drilling Co.:					
CS66-118 El Paso Natural Gas Co.	Levelland	Tex	Cochran	7 20 66	Iss.
Arthur Arnold:					
G-11824 Arkansas Louisiana Gas Co.	Jefferson Gas	Tex	Marion	9 8 66	Iss.
Arnold Petroleum Co., Operator, et al.:					
CI67-397 Northern Natural Gas Co.	Mocane-Laverne	Okla	Beaver	12 12 66	Iss.
Atlantic Richfield Co.:					
G-3699 Tennessee Gas Pipeline Co., a Division of Tenneco Inc.	Mustang Island	Tex	Nueces	9 19 66	Iss.
CI66-1259 Trunkline Gas Co.	East Bancroft	La	Beauregard	8 10 66	Iss.
CI66-1290 Panhandle Eastern Pipe Line Co.	Tangier	Okla	Woodward	8 2 66	Iss.
CI67-140 El Paso Natural Gas Co.	Jicarilla Area	N. Mex	Rio Arriba	10 7 66	Iss.
CI67-149 Tennessee Natural Gas Co., a Division of Tenneco Inc.	Ship Shoal Area	La	Terrebonne	9 13 66	Wtd.
CI67-322 Panhandle Eastern Pipe Line Co.	McQuiddy Ranch Area.	Tex	Hemphill	11 7 66	Iss.
Atlas Corp.:					
CI66-909 El Paso Natural Gas Co.	East Bisti	N. Mex	San Juan	8 15 66	Iss.
K. M. Ayers, et al., d/b/a Belknap Gas Co.:					
CI67-95 Equitable Gas Co.	Otter District	W. Va	Braxton	9 19 66	Iss.
Aztec Oil & Gas Co.:					
CI66-1047 El Paso Natural Gas Co.	Eumont Gas Pool	N. Mex	Lea	8 4 66	Iss.
Bachus Oil Co.:					
G-13166 Cities Service Gas Co.	Hardtner	Kans	Barber	12 20 66	Iss.
Baiden Gas Co.:					
CI64-214 United Fuel Gas Co.	Appalachian	Ky	Martin*	12 6 66	Iss.

See footnotes at end of table, p. 1221.

NEW SERVICE CERTIFICATES—Continued

PRODUCER‡, DOCKET NO. AND PURCHASER‡	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION[1]
W. E. Bakke, Operator, et al.:					
CI66-835 El Paso Natural Gas Co.	Blanco Mesa Verde	N. Mex	San Juan	7 11 66	Iss.
CS66-11 Colorado Interstate Gas Co.*	Hugoton	Kans	Stanton*	7 20 66	Iss.
Joe Ballanfonte, Sr.:					
G-18434 Florida Gas Transmission Co.	Luby	Tex	Nueces	9 8 66	Iss.
Banquete Gas Co., a Division of Crestmont Oil & Gas Co.:					
G-16199 United Gas Pipe Line Co.	Plymouth*	Tex	San Patricio	11 22 66	Iss.
G-17199 United Gas Pipe Line Co.	Spartan*	Tex	San Patricio	11 22 66	Iss.
CI66-1239 United Gas Pipe Line Co.	Wildcat	Tex	Wharton	8 4 66	Iss.
Gladys Lucille Barnett:					
CS67-11 El Paso Natural Gas Co.	Spraberry	Tex	Upton	12 20 66	Iss.
Thomas D. Barnett:					
CS67-12 El Paso Natural Gas Co.	Undesignated	Tex	Undesignated	12 20 66	Iss.
Paul F. Barnhart:					
CS66-77 El Paso Natural Gas Co.	Spraberry	Tex	Glasscock	10 25 66	Iss.
Barnwell Production Co., Operator, et al.:					
CI66-1262 Arkansas Louisiana Gas Co.	Excelsior	Tex	Marion	8 10 66	Iss.
David E. Barr:					
G-12912 Consolidated Gas Supply Corp.	Sherman District	W. Va	Calhoun	8 30 66	Iss.
CI66-1185 Consolidated Gas Supply Corp.	Sherman District	W. Va	Calhoun	8 4 66	Iss.
Basin Operating Co., Operator, et al.:					
CI67-294 United Gas Pipe Line Co.	Joaquin	Tex	Shelby	12 6 66	Iss.
Perry R. Bass, Operator, et al.:					
CI66-1090 Banquete Gas Co., a Division of Crestmont Oil & Gas Co.	Odem	Tex	San Patricio	8 4 66	Iss.
CI66-1112 Banquete Gas Co., a Division of Crestmont Oil & Gas Co.	Undesignated	Tex	Wharton	8 4 66	Iss.
R. E. Beamon Estate:					
CI66-836 El Paso Natural Gas Co.	Blanco Mesa Verde	N. Mex	San Juan	7 11 66	Iss.
Doris A. Beard:					
CS66-75 Northern Natural Gas Co.	Undesignated	Tex	Pecos	7 20 66	Iss.
Beard Oil Co.:					
CI67-350 Panhandle Eastern Pipe Line Co.	South Peek Area	Okla	Ellis	11 22 66	Iss.

See footnotes at end of table, p. 1221.

NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION [1]
Phillip F. Beeler:					
CI66-1246 Northern Natural Gas Co.	Mocane-Camp Creek Area.	Okla.	Beaver	10 26 66	Iss.
Behring's Production Co., Inc.:					
CI67-306 United Gas Pipe Line Co.	Dehlco	La.	Richland	12 12 66	Iss.
Benco Drilling Co., Inc.:					
CI61-1299 Consolidated Gas Supply Corp.	Freeman's Creek District	W. Va.	Lewis	12 20 66	Iss.
CI62-1312 Consolidated Gas Supply Corp.	Washington District	W. Va.	Calhoun	12 20 66	Iss.
Benedum Trees Oil Co.:					
CS66-18 El Paso Natural Gas Co.	De Late Charco*	Tex.*	Midland-Upton	7 20 66	Iss.
Bentsen-Whittington Oil Co., Operator, et al.:					
CI67-328 Texas Eastern Transmission Corp.	East Goree	Tex.	Bee	11 7 66	Iss.
Thomas E. Berry, Operator, et al.:					
G-18878 Transwestern Pipeline Co.	Undesignated	Okla.	Beaver	9 20 66	Iss.
Thomas N. Berry & Co.:					
CI66-1315 Northern Natural Gas Co.	Catesby	Okla.	Ellis	8 30 66	Iss.
Big Chief Drilling Co.:					
CI67-184 Oklahoma Natural Gas Gathering Corp.	No. Ringwood	Okla.	Major	12 1 66	Iss.
Big Sand Drilling Co., et al.:					
CI67-579 Equitable Gas Co.	Salt Lick District	W. Va.	Braxton	12 20 66	Iss.
Harry L. Bigbee:					
CI67-15 El Paso Natural Gas Co.	Escrito Gallup	N. Mex.	Rio Arriba	8 30 66	Iss.
Blackburn Gasoline Plant:					
CI67-248 W. R. Hughey Operating Co.*	Undesignated	La.	Bossier*	12 1 66	Iss.
Blaho Oil & Gas Co.:					
CI67-217 Carnegie Natural Gas Co.	Freeman's Creek District.	W. Va.	Lewis	10 26 66	Iss.
Floyd Blaine:					
CI67-268 Northern Natural Gas Co.	West Sharon	Okla.	Woodward	12 21 66	Iss.
Hal Bogle, et al.:					
CS66-45 El Paso Natural Gas Co.	Jalmat	N. Mex.	Lea	7 20 66	Iss.
Durbin Bond:					
CI66-1211 Cities Service Gas Co.	South Bishop	Okla.	Ellis	9 8 66	Iss.
Roland S. Bond, Operator, et al.:					
G-16392 Natural Gas Pipeline Co. of America.	Undesignated	Tex.	Wise	10 26 66	Iss.
C. O. Bower, et al.:					
CI66-1197 Consolidated Gas Supply Corp.	Murphy District	W. Va.	Ritchie	8 4 66	Iss.

See footnotes at end of table, p. 1221.

NEW SERVICE CERTIFICATES—Continued

PRODUCERS, DOCKET NO. AND PURCHASERS	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION[1]
Bowers Drilling Co., Inc.:					
CI66-1051 Cities Service Gas Co.	Little Bear Creek	Kans	Barber	10 7 66	Iss.
CI66-1238 Cities Service Gas Co.	I. L. S. Pool	Kans	Barber	8 4 66	Iss.
CI67-118 Cities Service Gas Co.	Undesignated	Kans	Barber	9 30 66	Iss.
W. Stewart Boyle:					
CS67-7 El Paso Natural Gas Co.	Spraberry Trend	Tex	Reagan	11 14 66	Iss.
Bradco Properties, Inc., et al.:					
CI67-462 Texas Gas Transmission Corp.	South Bell City	La	Calcasieu	12 12 66	Iss.
Braden Drilling, Inc.:					
CI67-342 Colorado Interstate Gas Co.	Hugoton	Kans	Hamilton	12 12 66	Iss.
Edwin G. Bradley, Operator, et al.:					
CI67-453 Panhandle Eastern Pipe Line Co.	Undesignated	Kans	Meade	12 1 66	Iss.
The Bradley Producing Corp.:					
CI66-9 Michigan Wisconsin Pipe Line Co.	Northeast Cedardale	Okla	Major	7 11 66	Iss.
Paul Brisbin, et al., d/b/a Arcadia Oil & Gas Co.:					
CI66-949 Carnegie Natural Gas Co.	Union District	W. Va	Ritchie	8 4 66	Iss.
Brooks Gas Corp.:					
CI66-1106 Northern Natural Gas Co.	Mertzon	Tex	Irion	10 26 66	Iss.
Brooks Hall Oil Corp.:					
CI66-796 El Paso Natural Gas Co.	Undesignated	N. Mex	Rio Arriba*	7 11 66	Iss.
George R. Brown, Operator, et al.:					
G-12015 Colorado Interstate Gas Co.	Keyes	Okla	Cimarron	9 19 66	Iss.
G-18479 Florida Gas Transmission Co.	North Monte Christo	Tex	Hidalgo	10 17 66	Iss.
G-20223 El Paso Natural Gas Co.	Headlee	Tex	Ector	11 7 66	Iss.
CI61-403 Colorado Interstate Gas Co.	Keyes	Okla	Cimarron	8 15 66	Iss.
CI61-709 Texas Gas Transmission Corp.	North Rousseau	La	Lafourche	8 30 66	Iss.
H. B. Brown, et al.:					
CI67-296 Consolidated Gas Supply Corp.	Sherman District	W. Va	Calhoun	12 20 66	Iss.
H. L. Brown, Jr., et al:					
CI61-1331 Transwestern Pipeline Co.	Undesignated	N.Mex	Roosevelt	9 20 66	Iss.
Harvey Broyles, Operator, et al.:					
CI66-1146 Arkansas Louisiana Gas Co.	Bear Creek	La	Bienville	7 11 66	Iss.

See footnotes at end of table, p. 1221.

NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION[1]
Bruns Production Co., Inc., Operator, et al.:					
CI67-43 Lone Star Gathering Co.	Speary Field Area	Tex	Karnes	8 30 66	Iss.
CI67-246 Lone Star Gathering Co.	Speary Field Area	Tex	Karnes	11 22 66	Iss.
Harry W. Brunt:					
CI67-111 Consolidated Gas Supply Corp.	Sandy Township	Pa	Clearfield	11 1 66	Iss.
George L. Buckles, Operator, et al.:					
CS66-119 El Paso Natural Gas Co.	Undesignated	N. Mex	Lea	7 20 66	Iss.
B.L. Burge, et al.:					
CI66-1195 Consolidated Gas Supply Corp.	Murphy	W.Va	Ritchie	8 4 66	Iss.
Burk Gas Corp., et al.:					
G-6210 United Gas Pipe Line Co.	Bethany	Tex	Panola	12 1 66	Iss.
CI67-239 Panhandle Eastern Pipe Line Co.	Undesignated	Kans	Meade	10 26 66	Iss.
Burk Royalty Co.:					
CI67-30 United Gas Pipe Line Co.	Bethany	Tex	Panola	8 30 66	Iss.
CI67-617 Panhandle Eastern Pipe Line Co.	Undesignated	Tex	Hemphill	12 21 66	Iss.
Burlington Bank & Trust Co., Trustee:					
G-2661 Colorado Interstate Gas Co.	Hugoton	Kans	Kearny	8 4 66	Iss.
Burning Creek-Marrowbone Land Co.:					
CI67-455 United Fuel Gas Co.	Kermit	W.Va	Mingo	12 1 66	Iss.
Bush & Williams, et al.:					
CI66-1179 Consolidated Gas Supply Corp.	Troy District	W. Va	Gilmer	8 4 66	Iss.
Leo G. Butler, d/b/a B & G Oil Co.:					
CI67-506 United Gas Pipe Line Co.	Poehler	Tex	Goliad	12 12 66	Iss.
Cabot Corp.:					
CI66-1100 Michigan Wisconsin Pipe Line Co.	Oklahoma "L" Unit	Okla	Harper	7 11 66	Iss.
CI67-81 Consolidated Gas Supply Corp.	Sandy River*	W. Va	McDowell	9 19 66	Iss.
CI67-275 Michigan Wisconsin Pipe Line Co.	Laverne	Okla	Harper	11 1 66	Iss.
CI67-331 El Paso Natural Gas Co.	Undesignated	Tex	Schelicher	12 21 66	Iss.
CI67-344 Natural Gas Pipeline Co. of America.	Undesignated	Okla	Texas	11 22 66	Iss.
Charley Cain:					
CI67-125 United Fuel Gas Co.	Goldwater Fork	Ky	Martin	10 7 66	Iss.
CI67-552 United Fuel Gas Co.	Undesignated	Ky	Martin	12 20 66	Iss.
Calder, N. Bruce & Curtis E. Jr.:					
CI67-100 Transwestern Pipeline Co.	Undesignated	Tex	Hansford & Ochiltree.	9 20 66	Iss.
CI61-1300 Transwestern Pipeline Co.	Undesignated	N. Mex	Roosevelt	9 20 66	Iss.

See footnotes at end of table, p. 1221.

NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION[1]
Callery Properties, Inc.:					
CI66-1023 Texas Eastern Transmission Corp.	Manila Village	La.	Jefferson	7 11 66	Iss.
A. A. Cameron, d/b/a Cameron Oil Co.:					
CI67-33 Natural Gas Pipeline Co. of America:	Farnsworth North	Tex.	Ochiltree	8 22 66	Iss.
C. G. Campbell, Operator, et al.:					
G-14520 El Paso Natural Gas Co.	Drinkard	N. Mex.	Lea	8 4 66	Iss.
CI66-104 El Paso Natural Gas Co.	Drinkard*	N. Mex.	Lea	8 4 66	Iss.
Robert E. Campbell:					
CI66-1333 Panhandle Eastern Pipe Line Co.	Laredo	Kans.	Reno	8 30 66	Iss.
M. D. Carey, et al., d/b/a Carey Oil Co., et al.:					
CI66-1180 Consolidated Gas Supply Corp.	Grant District	W. Va.	Doddridge	8 4 66	Iss.
M. E. Cassidy, Jr., Trustee, Operator, et al.:					
CI67-203 Banquete Gas Co., a Division of Crestmont Oil & Gas Co.	Spartan-Odem	Tex.	San Patricio	10 26 66	Iss.
Mrs. Thomas Cassidy, et al.:					
CS66-139 El Paso Natural Gas Co.	Spraberry Driver Unit.	Tex.	Glasscock	8 11 66	Iss.
Diana Goff Cather, et al.:					
CI67-580 Consolidated Gas Supply Corp.	Oak Mound	W. Va.	Harrison	12 20 66	Iss.
Cenard Oil & Gas Co.:					
CI66-1274 El Paso Natural Gas Co.	Blanco Mesa Verde*	N. Mex.	San Juan*	9 19 66	Iss.
CI66-1275 El Paso Natural Gas Co.	Blanco Mesa Verde*	N. Mex.	San Juan	9 19 66	Iss.
CI66-1276 Brooks Gas Corp.	Brooks	Tex.	Irion	9 19 66	Iss.
CI66-1277 El Paso Natural Gas Co.	Blanco Mesa Verde*	N. Mex.	San Juan*	9 19 66	Iss.
CI67-100 El Paso Natural Gas Co.	Tapacito Pictured Cliffs.	N. Mex.	Rio Arriba	9 19 66	Iss.
Wm. H. Chamberlain, d/b/a Saturn Oil & Gas Co., Operator:					
G-5999 Northern Natural Gas Co.	Undesignated	Kans.	Stevens	11 22 66	Iss.
CI61-1187 Panhandle Eastern Pipe Line Co.	Undesignated	Kans.	Seward	11 22 66	Iss.
CI62-28 Panhandle Eastern Pipe Line Co.	Undesignated	Kans.	Grant*	11 22 66	Iss.
Champlin Petroleum Co.:					
CI66-1029 Tennessee Gas Pipeline Co., a Division of Tenneco Inc.	Beaurline	Tex.	Hidalgo	8 4 66	Iss.
CI67-584 Northern Natural Gas Co.	West Tangier	Okla.	Ellis	12 21 66	Iss.

See footnotes at end of table, p. 1221.

NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION[1]
Harry Allen Chapman:					
CI67-129 Mountain Fuel Supply Co.	Ace Unit	Colo	Moffat	10 7 66	Iss.
A.F. Chisholm, d/b/a The Brandon Co.:					
CI67-151 United Gas Pipe Line Co.	Gwinville	Miss	Jefferson Davis	10 7 66	Iss.
F.M. Chisler:					
CI66-1251 Harry C. Boggs Natural Gas Co.	Birch District*	W. Va	Braxton*	8 10 66	Iss.
Cities Service Oil Co.:					
CI66-636 El Paso Natural Gas Co.	Merchant Unit	Tex	Reagan	8 4 66	Iss.
CI66-1154 Panhandle Eastern Pipe Line Co.	Undesignated	Okla	Cimarron	7 11 66	Iss.
CI66-1329 Northern Natural Gas Co.	Undesignated	Okla	Ellis*	8 30 66	Iss.
CI67-522 United Gas Pipe Line Co.	South Calhoun	La	Jackson	12 12 66	Iss.
Cities Service Oil Co., Operator:					
CI65-561 Natural Gas Pipeline Co. of America	Bluitt Plant	N. Mex	Roosevelt	12 6 66	Iss.
Anson L. Clark:					
CI66-1317 Panhandle Eastern Pipe Line Co.	South Bishop	Okla	Ellis	9 8 66	Iss.
E.B. Clark, Operator, et al.:					
CI66-1201 Consolidated Gas Supply Corp.	Glenville District	W. Va	Gilmer	8 4 66	Iss.
CI66-1206 Consolidated Gas Supply Corp.	Glenville District	W. Va	Gilmer	8 4 66	Iss.
CS66-136 Undesignated	Undesignated	Tex.*	Undesignated	8 11 66	Iss.
J.O. Clark, Jr., et al.:					
CI67-622 Natural Gas Pipeline Co. of America	Mobeetie	Tex	Wheeler	12 21 66	Iss.
N. G. Clark:					
CI67-142 Equitable Gas Co	Hackers Creek District.	W. Va	Lewis	10 7 66	Iss
Cleary Petroleum, Inc., Operator, et al.:					
CI66-1157 Cities Service Gas Co.	North Nye	Okla	Beaver	8 4 66	Iss.
CI67-108 Cities Service Gas Co.	Knowles Gas	Okla	Beaver	9 30 66	Iss.
CI67-115 Lone Star Gas Co	West Velma	Okla	Stephens	9 30 66	Iss.
John & Lola Click:					
CI66-681 Kentucky-West Virginia Gas Co.	Undesignated	Ky	Knott	8 15 66	Iss.
Coastal States Gas Producing Co.:					
G-13279 United Gas Pipe Line Co.	Hayes	La	Calcasieu	12 6 66	Iss.
CI67-321 Tennessee Gas Pipeline Co., a Division of Tenneco Inc.	El Ebanito	Tex	Starr	12 20 66	Iss.
Connally Oil Co., Inc., Operator, et al.:					
CI67-168 Panhandle Eastern Pipe Line Co.	South Tegarden	Okla	Woods	11 1 66	Iss.
CS66-129 El Paso Natural Gas Co.	Spraberry Trend Area.	Tex	Midland*	8 11 66	Iss.

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NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION [1]
Colorado Oil & Gas Corp.:					
CI67-128 Colorado Interstate Gas Co.	Adams Ranch	Kans	Meade	10 7 66	Iss.
CI67-339 Transcontinental Gas Pipe Line Corp.	Block 86	La	Offshore Vermilion.	12 12 66	Iss.
Coltexo Corp., Operator:					
G-19806 Transwestern Pipeline Co.	Undesignated	Tex	Gray	9 20 66	Iss.
Columbian Fuel Corp., et al.:					
CI66-1250 Consolidated Gas Supply Corp.	Undesignated	Pa	Jefferson	8 10 66	Iss.
CI67-450 Northern Natural Gas Co.	Eubank	Kans	Haskell	12 6 66	Iss.
J. R. Cone, et al.:					
CI67-303 Arkansas Louisiana Gas Co.	Danville Area	La	Bienville	11 1 66	Iss.
CS66-69 El Paso Natural Gas Co.	Tubbs, Hare & Drinkard.	N. Mex	Lea	7 20 66	Iss.
S. E. Cone, et al.:					
CS66-71 El Paso Natural Gas Co.	Jalmat	N. Mex	Lea	7 20 66	Iss.
Continental-Emsco Co. Division Youngstown Sheet & Tube Co.:					
G-13026 Texas Eastern Transmission Corp.	Tatum	Tex	Rusk	11 1 66	Iss.
Continental Oil Co.:					
CI66-724 El Paso Natural Gas Co.	Spraberry	Tex	Glasscock	9 30 66	Iss.
CI66-989 El Paso Natural Gas Co.	Eumont Gas Pool	N. Mex	Lea	9 8 66	Iss.
CI66-1267 Arkansas Louisiana Gas Co.	Danville Area	La	Bienville	8 10 66	Iss.
CI67-67 Northern Natural Gas Co.	Undesignated	Okla	Ellis*	9 19 66	Iss.
CI67-107 El Paso Natural Gas Co.	Honolulu Mesa Area	N. Mex	Rio Arriba	9 30 66	Iss.
CI67-332 Arkansas Louisiana Gas Co.	Kinta	Okla	Sequoyah	11 22 66	Iss.
CI67-371 Natural Gas Pipeline Co. of America.	N.E. Fort Supply Area.	Okla	Harper	11 22 66	Iss.
Roy L. Cook, Trustee:					
CI62-1291 Piedra Corp	Ignacio-Blanco	Colo	La Plata*	12 21 66	Iss.
Coulston Drilling Co., Operator, et al.:					
CI66-1285 Arkansas Louisiana Gas Co.	Excelsior	Tex	Marion	8 10 66	Iss.
Cowper Brothers Production Co.:					
CS66-131 El Paso Natural Gas Co.	Undesignated	Tex	Reagan	8 11 66	Iss.
Edwin L. Cox, Operator, et al.:					
CI66-1279 Valley Gas Transmission, Inc.	Sejita	Tex	Duval	8 4 66	Iss.
CI66-1282 Colorado Interstate Gas Co.	Greenwood	Kans	Morton	8 30 66	Iss.
CI67-171 Michigan Wisconsin Pipe Line Co.	Woodward Area	Okla	Dewey	11 1 66	Iss.

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NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION[1]
Walter C. Crane, et al.:					
CI67-253 Carnegie Natural Gas Co.	Union District	W. Va.	Ritchie	12 20 66	Iss.
CI67-254 Carnegie Natural Gas Co.	Union District	W. Va.	Ritchie	12 20 66	Iss.
John L. Crawford:					
CI67-247 Panhandle Eastern Pipe Line Co.	Undesignated	Okla.	Woods	11 1 66	Iss.
Harry R. Cronin, Jr., et al.:					
CI67-276 Equitable Gas Co.	Grant District	W. Va.	Marion	11 1 66	Iss.
H. L. Crosby, Jr.:					
CI66-1351 Panhandle Eastern Pipe Line Co.	Undesignated	Okla.	Beaver	8 30 66	Iss.
Crystal Oil & Land Co.:					
CI67-233 United Gas Pipe Line Co.	Lisbon	La.	Claiborne	12 6 66	Iss.
Cumberland Gas Co.:					
CI66-1204 Consolidated Gas Supply Corp.	Union District*	W. Va.	Clay	8 4 66	Iss.
Clark Curry, Agent:					
CI67-451 United Fuel Gas Co.	Curry District	W. Va.	Putnam	12 20 66	Iss.
Dalco Oil Co.:					
CI67-205 Panhandle Eastern Pipe Line Co.	South Peek	Okla.	Ellis	10 14 66	Iss.
CS66-96 United Fuel Gas Co.*	North Erath	La.	Vermilion*	7 20 66	Iss.
Darmac Corp.:					
CS66-99 Transwestern Pipeline Co.	Putnam*	Tex.	Pecos	8 15 66	Iss.
C. Grady Davis, et al.:					
G-8517 El Paso Natural Gas Co.	Greater Blanco	N. Mex.	San Juan	9 8 66	Iss.
Roy C. & Freeda M. Davisson:					
CI64-530 Consolidated Gas Supply Corp.	Freemans Creek	W. Va.	Lewis	8 30 66	Iss.
Paul DeCleva, et al.:					
CS67-18 El Paso Natural Gas Co.	Permian Basin	Undesignated.	Undesignated	12 20 66	Iss.
F. A. Deem:					
CI66-946 Carnegie Natural Gas Co.	Union District	W. Va.	Ritchie	8 10 66	Iss.
CI66-1335 Carnegie Natural Gas Co.	Union District	W. Va.	Ritchie	8 30 66	Iss.
CI66-1336 Carnegie Natural Gas Co.	Union District	W. Va.	Ritchie	8 30 66	Iss.
CI66-1337 Carnegie Natural Gas Co.	Union District	W. Va.	Ritchie	8 30 66	Iss.
CI66-1338 Carnegie Natural Gas Co.	Union District	W. Va.	Ritchie	8 30 66	Iss.
CI66-1339 Carnegie Natural Gas Co.	Union District	W. Va.	Ritchie	8 30 66	Iss.
CI66-1340 Carnegie Natural Gas Co.	Union District	W. Va.	Ritchie	8 30 66	Iss.
CI66-1341 Carnegie Natural Gas Co.	Union District	W. Va.	Ritchie	8 30 66	Iss.
CI66-1342 Carnegie Natural Gas Co.	Union District	W. Va.	Ritchie	8 30 66	Iss.

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NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION [1]
Delta Corp.:					
CI66-1115 Cities Service Gas Co.	Wakita	Okla	Grant	7 11 66	Iss.
CI66-1116 Northern Natural Gas Co.	Dover	Okla	Beaver	7 11 66	Iss.
CI67-165 Cities Service Gas Co.	Wakita	Okla	Grant	10 17 66	Iss.
Delta Drilling Co.:					
CI67-598 Consolidated Gas Supply Corp.	Undesignated	Pa	Allegheny*	12 21 66	Iss.
Diamond Alkali Co.:					
CI67-282 Panhandle Eastern Pipe Line Co.	Borchers Area	Kans	Meade	11 1 66	Iss.
John T. Diederich:					
CI67-445 United Fuel Gas Co.	Undesignated	Ky	Martin	12 6 66	Iss.
CI67-446 United Fuel Gas Co.	Undesignated	Ky	Martin	12 6 66	Iss.
CI67-447 United Fuel Gas Co.	Undesignated	Ky	Martin	12 6 66	Iss.
G. E. Dixon, Operator, et al.:					
CI65-52 Arkansas Louisiana Gas Co.	Waskom	Tex	Harrison	9 8 66	Iss.
Dominion Oil & Gas Co.:					
CI66-1041 Carnegie Natural Gas Co.	Freemans Creek District.	W. Va	Lewis	8 30 66	Iss.
Duer Wagner & Co., Operator, et al.:					
CI67-45 South Texas Natural Gas Gathering Co.	McGill Ranch	Tex	Kleberg & Kenedy.	9 8 66	Iss.
Thomas A. Dugan, Operator, et al.:					
G-18597 El Paso Natural Gas Co.	Gavilan Pictured Cliffs.	N. Mex	Rio Arriba	8 30 66	Iss.
CI66-1297 El Paso Natural Gas Co.	Basin Dakota	N. Mex	San Juan	9 8 66	Iss.
Eric T. Duncan, et al.:					
G-15346 Pennzoil Co.	Murphy District*	W. Va	Calhoun*	10 26 66	Iss.
E. T. F. Corp.:					
CS66-82 Natural Gas Pipeline Co. of America.	Twin*	Tex	Hansford	8 11 66	Iss.
Eagle Oil Co., Inc., Operator et al.:					
CI67-232 Northern Natural Gas Co.	Belpre	Kans	Edwards	11 7 66	Iss.
CI67-544 Cumberland & Allegheny Gas Co.	Undesignated	Md	Garrett	12 20 66	Iss.
Eason Oil Co., Operator, et al.:					
CI67-193 Northern Natural Gas Co.	Undesignated	Okla	Woodward	12 21 66	Iss.
John A. Egan, Operator, et al.:					
CI66-1022 El Paso Natural Gas Co.	Undesignated	N. Mex	Rio Arriba	8 4 66	Iss.
El Paso Products Co.:					
CI67-345 Panhandle Eastern Pipe Line Co.	South Peek	Okla	Ellis	12 6 66	Iss.
English Jackson, Inc.:					
CS67-14 El Paso Natural Gas Co.	Undesignated	Tex	Undesignated	11 14 66	Iss.

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NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION[1]
Exploration & Development, Inc.:					
CI67-508 Arkansas Louisiana Gas Co.	Southeast Bramen	Okla.	Kay	12 6 66	Iss.
Fairmont Oil Co.:					
CI66-1002 Pennsylvania Gas Co.	Sheffield Township	Pa.	Warren	12 6 66	Iss.
Falcon Seaboard Drilling Co., Operator, et al.:					
CI63-725 Transwestern Pipeline Co.	Undesignated	Tex.	Lipscomb	9 20 66	Iss.
Falling Rock Co., Operator, et al.:					
CI62-207 United Fuel Gas Co.	Elk District	W. Va.	Kanawha	10 17 66	Iss.
W. J. Fellers, Operator, et al.:					
CI66-1129 Northern Natural Gas Co.	North Lemon*	Kans.	Haskell	7 11 66	Iss.
CI66-1156 Cities Service Gas Co.	North Nye	Okla.	Beaver	8 4 66	Iss.
Willard E. Ferrell, et al.:					
CI66-1162 Consolidated Gas Supply Corp.	Union District	W. Va.	Ritchie	8 4 66	Iss.
CI66-1249 Equitable Gas Co.	Union District	W. Va.	Ritchie	8 10 66	Iss.,
CI67-214 Equitable Gas Co.	Union District	W. Va.	Ritchie	10 26 66	Iss.
Bert Fields Estate, et al.:					
CS66-122 Arkansas Louisiana Gas Co.*	Undesignated	Tex.*	Harrison*	7 20 66	Iss.
Douglas E. Florence:					
CI67-35 El Paso Natural Gas Co.	Ballard Pictured Cliffs.	N. Mex.	Rio Arriba	8 22 66	Iss.
The Fluor Corp., Ltd.:					
CI62-251 Northern Natural Gas Co.	Hooker-Northeast	Okla.	Texas	12 12 66	Iss.
CI67-17 United Gas Pipe Line Co.	Driscoll	La.	Bienville	9 30 66	Iss.
CI67-188 Bluebonnet Gas Corp.	Bayou Fordoche	La.	Pointe Coupee	12 21 66	Iss.
CS66-128 El Paso Natural Gas Co.	Pecos Valley Pool*	Tex.	Pecos*	8 11 66	Iss.
Foree Co., Operator, et al.:					
G-16004 Northern Natural Gas Co.	Undesignated	Okla.	Beaver	11 22 66	Iss.
CI61-661 Transwestern Pipeline Co.	Undesignated	Okla.	Harper	9 20 66	Iss.
CI61-1726 Transwestern Pipeline Co.	N.W. Doby Springs	Okla.	Harper	11 22 66	Iss.
CS66-81 Transwestern Pipeline Co.	Undesignated	Tex.	Dallam*	8 11 66	Iss.
R. L. Foree:					
CI66-1114 Panhandle Eastern Pipe Line Co.	Berryman	Kans.	Morton	7 11 66	Iss.
CS66-83 El Paso Natural Gas Co.	Undesignated	Tex.	Undesignated	7 20 66	Iss.
Forest Chemical Co.:					
CI66-1231 Pennsylvania Gas Co.	Cherry Grove Township.	Pa.	Warren	12 1 66	Iss.
Forest Oil Corp., Operator, et al.:					
CI67-150 Northern Natural Gas Co.	North Puckett	Tex.	Pecos	12 20 66	Iss.

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NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION [1]
Foster Petroleum Corp.:					
CI67-238 Panhandle Eastern Pipe Line Co.	Homer	Okla.	Garfield	9 21 66	Rej.
J. A. Fox:					
CI67-240 Carnegie Natural Gas Co.	Freemans Creek District.	W. Va.	Lewis	10 26 66	Iss.
CI67-241 Carnegie Natural Gas Co.	Freemans Creek District.	W. Va.	Lewis	10 26 66	Iss.
Francis Friestad, et al.:					
CI66-1223 Equitable Gas Co.	Glenville District	W. Va.	Gilmer	8 4 66	Iss.
Joseph F. Fritz, Operator, et al.:					
CI66-239 United Gas Pipe Line Co.	Maxie-Pistol Ridge	Miss.	Pearl River	10 17 66	Iss.
Frying Pan Oil & Gas Co.:					
CI67-520 United Fuel Gas Co.	Laurel Hill District	W. Va.	Lincoln	12 12 66	Iss.
Fred P. Fulton, et al.:					
CI67-356 Colorado Interstate Gas Co.	Hugoton	Kans.	Kearny	11 22 66	Iss.
Albert Gackle, Operator, et al.:					
CS66-10 El Paso Natural Gas Co.	Undesignated	N. Mex.	Lea	7 20 66	Iss.
Gas Rock Corp.:					
CI66-1306 United Gas Pipe Line Co.	Baxterville	Miss.	Lamar	10 7 66	Iss.
Gawthrop Oil & Gas Producers, Inc.:					
G-8177 Consolidated Gas Supply Corp.	Sardis District[*]	W. Va.	Doddridge	11 1 66	Iss.
General American Oil Co. of Texas, Operator, et al.:					
CI63-886 United Fuel Gas Co.	Duson	La.	Lafayette	9 8 66	Iss.
CI66-1298 Consolidated Gas Supply Corp.	Big Run Pool	Pa.	Jefferson	8 15 66	Iss.
CI66-1299 Consolidated Gas Supply Corp.	Big Run Pool	Pa.	Indiana	8 15 66	Iss.
Geosonic Corp., Agent:					
CI66-1188 Consolidated Gas Supply Corp.	Salt Lick District	W. Va.	Braxton	8 4 66	Iss.
Getty Oil Co.:					
CI66-994 El Paso Natural Gas Co.	Eumont	N. Mex.	Lea	10 26 66	Iss.
Gibson Oil Co., et al.:					
CI66-1184 Consolidated Gas Supply Corp.	Grant District	W. Va.	Ritchie	8 4 66	Iss.
Virgil Goble, et al.:					
CI67-257 United Fuel Gas Co.	Mud Creek	Ky.	Floyd	11 1 66	Iss.
Goff Oil Co., Operator, et al.:					
CI67-167 Northern Natural Gas Co.	Northeast Harmon	Okla.	Woodward	10 17 66	Iss.
Golden Oil Co.:					
CI66-930 Pennsylvania Gas Co.	Sheffield Township	Pa.	Warren	8 4 66	Iss.
CI67-225 Michigan Wisconsin Pipe Line Co.	Woodward Area	Okla.	Dewey	10 26 66	Iss.
Graham-Michaelis Drilling Co.:					
CI67-370 Michigan Wisconsin Pipe Line Co.	Laverne	Okla.	Beaver	12 1 66	Iss.

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NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION[1]
Grande Oil Co.:					
G-12302 Texas Eastern Transmission Corp.	Salem	Tex.	Victoria	12 12 66	Iss.
Graridge Corp., Operator, et al.:					
CI66-1102 Banquete Gas Co., a Division of Crestmont Oil & Gas Co.	Plymouth	Tex.	San Patricio	7 11 66	Iss.
Great Western Drilling Co.:					
CS66-124 El Paso Natural Gas Co.	Bianco*	N. Mex.	Eumont*	7 20 66	Iss.
Gulf Oil Corp.:					
CI66-1145 Panhandle Eastern Pipe Line Co.	South Forgan	Okla.	Beaver	8 10 66	Iss.
CI66-1149 Arkansas Louisiana Gas Co.	Cheniere	La.	Ouachita	7 11 66	Iss.
CI66-1258 Lone Star Gas Co.	Danville	Tex.	Gregg	8 10 66	Iss.
CI67-146 Transwestern Pipeline Co.	Clementine (Upper Morrow).	Tex.	Hansford	10 7 66	Iss.
CI67-270 Michigan Wisconsin Pipe Line Co.	Laverne	Okla.	Oklahoma	11 1 66	Iss.
CI67-285 Transwestern Pipeline Co.	Northwest Mendota	Tex.	Hemphill	11 1 66	Iss.
CI67-326 Panhandle Eastern Pipe Line Co.	Feldman Douglas	Tex.	Hemphill	11 7 66	Iss.
CI67-374 Panhandle Eastern Pipe Line Co.	Southeast Gage	Okla.	Ellis	11 22 66	Iss.
H.L.M. Drilling Co., Operator, et al.:					
CI66-1343 Mountain Fuel Supply Co.	Pole Gulch Unit	Colo.	Moffat	8 30 66	Iss.
John A. Hairford:					
CI67-23 Cities Service Gas Co.	Kleeman Gas Unit	Kans.	Kearney	8 30 66	Iss.
CI67-24 Northern Natural Gas Co.	Undesignated	Kans.	Finney	8 30 66	Iss.
CI67-126 Kansas-Nebraska Natural Gas Co., Inc.	Hugoton Kansas Gas	Kans.	Finney	8 19 66	Rej.
CI67-329 Kansas-Nebraska Natural Gas Co., Inc.	Undesignated	Kans.	Finney	12 21 66	Iss.
G. Scott Hammond:					
CS66-74 Northern Natural Gas Co.	Duckett Ellenburger	Tex.	Pecos	7 20 66	Iss.
Hammond Producing Co.:					
CI66-1229 Pennsylvania Gas Co.	Sheffield Township	Pa.	Warren	8 22 66	Iss.
Jake L. Hamon, Operator, et al.:					
CI66-107 El Paso Natural Gas Co.	Headlee*	Tex.*	Ector*	7 13 66	Iss.
CI66-948 Carnegie Natural Gas Co.	Freemans Creek District.	W. Va.	Lewis	9 8 66	Iss.
CI67-64 Panhandle Eastern Pipe Line Co.	Tangier Area	Okla.	Woodward	9 8 66	Iss.
Hanley Co.:					
CI67-289 El Paso Natural Gas Co.	Spraberry Trend Area.	Tex.	Upton	11 22 66	Iss.

See footnotes at end of table, p. 1221.

NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION.[1]
Don W. Hardman, Agent:					
CI66-1182 Consolidated Gas Supply Corp.	Murphy District	W.Va.	Ritchie	8 4 66	Iss.
Harper Oil Co., et al.:					
CI61-1172 Transwestern Pipeline Co.	Undesignated	Okla.	Beaver	9 20 66	Iss.
CI61-1215 Transwestern Pipeline Co.	Undesignated	Okla.	Beaver	9 20 66	Iss.
CI62-1302 Transwestern Pipeline Co.	Undesignated	Okla.	Beaver	9 20 66	Iss.
CI67-25 Michigan Wisconsin Pipe Line Co.	Undesignated	Okla.	Harper	8 30 66	Iss.
Harper-Smith & Associates, Inc.:					
CI66-1216 Lone Star Gathering Co.	Belitz	Tex.	De Witt	8 4 66	Iss.
James W. Harris:					
CI67-399 Southern Natural Gas Co.	Gwinville	Miss.	Jefferson Davis	12 1 66	Iss.
J.M.Hawley, d/b/a Hawley Oil Co.:					
CI67-10 Phillips Petroleum Co.	West Panhandle	Tex.	Carson*	10 17 66	Iss.
Hays & Co., Agent:					
CI66-1113 United Fuel Gas Co.	Ravenswood District.	W.Va.	Jackson	8 22 66	Iss.
CI66-1183 Consolidated Gas Supply Corp.	Lee District	W.Va.	Calhoun	8 4 66	Iss.
CI66-1198 Consolidated Gas Supply Corp.	Union District	W.Va.	Barbour	8 4 66	Iss.
CI66-1202 Consolidated Gas Supply Corp.	Center District	W.Va.	Gilmer	8 4 66	Iss.
CI67-281 Equitable Gas Co.	West Union	W.Va.	Doddridge	11 7 66	Iss.
Paul M. Haywood:					
G-18992 Transwestern Pipeline Co.	Undesignated	Okla.	Ochiltree*	9 20 66	Iss.
John A. Healy, et al., d/b/a Pine Run Oil Co.:					
CI66-1141 Pennsylvania Gas Co.	Highland Township	Pa.	Elk	8 22 66	Iss.
The Hefner Production Co., Operator, et al.:					
CI67-70 Panhandle Eastern Pipe Line Co.	Tangier	Okla.	Woodward	9 19 66	Iss.
James H. Helland:					
CI67-69 United Gas Pipe Line Co.	Fortitude-Pettus	Tex.	Bee	9 19 66	Iss.
Justin M. Henderson:					
CI67-245 Carnegie Natural Gas Co.	West Union District	W. Va.	Doddridge	11 1 66	Iss.
Doyle Henson:					
CI66-1307 Equitable Gas Co.	Salt Lick District	W. Va.	Braxton	8 15 66	Iss.
James W. Hersber:					
CI67-355 Cities Service Gas Co.	Undesignated	Kans.	Barber	12 1 66	Iss.
Charles L. Hickman, et al.:					
CI67-523 Carnegie Natural Gas Co.	Central District	W. Va.	Doddridge	12 12 66	Iss.

See footnotes at end of table, p. 1221.

NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION [1]
A. G. Hill, Operator, et al.:					
G-20386 Transwestern Pipeline Co.	Undesignated	Tex	Hemphill	9 20 66	Iss.
CI67-143 Consolidated Gas Supply Corp.	Undesignated	W. Va	Roane*	10 7 66	Iss.
H. E. Hill, Operator, et al.:					
CI67-218 United Gas Pipe Line Co.	West Beeville	Tex	Bee	10 26 66	Iss.
Jack D. Hodgden, Operator, et al.:					
CI67-136 Oklahoma Natural Gas Gathering Corp.	North Ringwood	Okla	Major	10 26 66	Iss.
H. R. Holden, Agent for RMW Lease:					
CI66-1233 Pennzoil Co.	Murphy District	W. Va	Ritchie	8 30 66	Iss.
Robert B. Honeyman, Jr.:					
CS66-26 El Paso Natural Gas Co.	Monument	N. Mex	Lea	7 20 66	Iss.
Charles S. Hopkins, et al.:					
CI66-1252 Consolidated Gas Supply Corp.	Big Run	Pa	Jefferson	8 15 66	Iss.
Horizon Oil & Gas Co. of Texas:					
CI67-301 Panhandle Eastern Pipe Line Co.	Hallock Block	Kans	Meade	11 1 66	Iss.
Henry H. Howard, et al.:					
CI66-1162 Pennsylvania Gas Co.	Lafayette Township	Pa	McKean	12 6 66	Iss.
John E. Huff:					
CI66-1236 Texas Eastern Transmission Corp.	Adams Ranch	Tex	Jasper	8 4 66	Iss.
Hugoton Natural Gas Production Co., Operator, et al.:					
G-10181 Texas Eastern Transmission Corp.	Salem	Tex	Victoria	8 30 66	Iss.
CI67-176 Carnegie Natural Gas Co.	Union District	W. Va	Ritchie	11 1 66	Iss.
Huisache Operating Co., Operator, et al.:					
CI67-471 Valley Gas Transmission, Inc.	Luby	Tex	Nueces	12 6 66	Iss.
Humble Oil & Refining Co.:					
CI66-1302 Texas Eastern Transmission Corp.	El Paistle Deep	Tex	Kenedy	8 30 66	Iss.
CI66-1330 United Fuel Gas Co.	Longview	La	Franklin Parish	8 30 66	Iss.
CI67-2 Cities Service Gas Co.	Bishop Area	Okla	Roger Mills	8 22 66	Iss.
CI67-3 Michigan Wisconsin Pipe Line Co.	Woodward Area	Okla	Dewey	9 8 66	Iss.
CI67-49 El Paso Natural Gas Co.	Wilshire	Tex	Upton	12 20 66	Iss.
CI67-76 Panhandle Eastern Pipe Line Co.	S.E. Gage	Okla	Ellis	9 19 66	Iss.
CI67-293 Colorado Interstate Gas Co.	Desert	Wyo	Sweetwater	11 1 66	Iss.

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NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION [1]
Humble Oil and Refining Co.—Continued					
CI67-316 Natural Gas Pipeline Co. of America.	Nine Mile Point	Tex	Arkansas	11 22 66	Iss.
CI67-386 Natural Gas Pipeline of America.	Camrick	Okla	Beaver*	12 1 66	Iss.
CI67-396 Valley Gas Transmission, Inc.	East Scott	Tex	Brooks	12 1 66	Iss.
CI67-461 Transwestern Pipeline Co.	Mendota	Tex	Hemphill*	12 6 66	Iss.
CI67-517 Northern Natural Gas Co.	Arnett	Okla	Ellis	12 21 66	Iss.
CI67-602 Lone Star Gas Co.	East Nellie	Okla	Stephens	12 21 66	Iss.
Hunter Bros. & Wallace, Inc.:					
CI67-122 Banquete Gas Co., a Division of Crestmont Oil & Gas Co.	Plymouth-Taft	Tex	San Patricio	10 26 66	Iss.
I. C. Barnes Oil Co., Operator:					
CI67-357 Michigan Wisconsin Pipe Line Co.	West Campbell	Okla	Major	11 22 66	Iss.
CS67-1 Shell Oil Co.*	TXL*	Tex	Ector*	9 27 66	Iss.
Ibex Partnership, Operator, et al.:					
CI66-1087 El Paso Natural Gas Co.	Spraberry Trend Area.	Tex	Reagan	8 30 66	Iss.
Imperial Drilling Co., Operator & Agent:					
CI67-190 Northern Natural Gas Co.	Follett	Tex	Lipscomb	10 26 66	Iss.
Curtis R. Inman:					
CS66-60 Transwestern Pipeline Co.*	Worsham*	Tex.*	Reeves*	7 20 66	Iss.
Intermountain Petroleum Corp., Operator, et al.:					
CI67-605 El Paso Natural Gas Co.	San Juan Basin	N. Mex	Rio Arriba	12 21 66	Iss.
J & J Enterprises, Inc.:					
CI66-1196 Consolidated Gas Supply Corp.	Warren District	W. Va	Upshur	8 4 66	Iss.
CI66-1200 Consolidated Gas Supply Corp.	Union District	W. Va	Barbour	8 4 66	Iss.
J. M. Huber Corp.:					
CI61-357 Transwestern Pipeline Co.	Undesignated	Tex	Ochiltree	9 20 66	Iss.
CI66-1291 Panhandle Eastern Pipe Line Co.	Southeast Gage	Okla	Ellis	8 2 66	Iss.
CI66-1295 Northern Natural Gas Co.	NW Lovedale*	Okla	Harper*	8 15 66	Iss.
Jacklon, Inc., et al.:					
CI63-1029 Panhandle Eastern Pipe Line Co.	Undesignated	Tex	Moore*	9 30 66	Iss.
J. B. Jackson:					
CI66-1071 Carnegie Natural Gas Co.	Center District	W. Va	Gilmer	8 4 66	Iss.
James Drilling Corp., et al.:					
CI67-473 Consolidated Gas Supply Corp.	Luthersburg	Pa	Clearfield	12 6 66	Iss.

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NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION[1]
Jefferson Elk Oil & Gas Co.:					
CI66-1050 United Natural Gas Co.	Knox Township	Pa.	Jefferson	12 20 66	Iss.
CI67-536 United Natural Gas Co.	Rose Township	Pa.	Jefferson	12 12 66	Iss.
Jennings Petroleum Corp.:					
CI66-1085 Equitable Gas Co.	Salt Lick District*	W. Va.	Braxton	7 11 66	Iss.
Johnson & French Oil Co.:					
CS66-24 El Paso Natural Gas Co.	Langlie-Mattix	N. Mex.	Lea	7 20 66	Iss.
Johnson Oil & Gas Co.:					
G-5441 Consolidated Gas Supply Corp.	Ten Mile District	W. Va.	Harrison	12 1 66	Iss.
Arthur S. Jones, et al.:					
CI67-591 United Fuel Gas Co.	Curry District	W. Va.	Putnam	12 21 66	Iss.
CI67-592 United Fuel Gas Co.	Curry District	W. Va.	Putnam	12 21 66	Iss.
Joseph E. Seagram & Sons, Inc.:					
CI66-1215 Natural Gas Pipeline Co. of America.	North Farnsworth Area.	Tex.	Ochiltree	8 4 66	Iss.
CI67-202 United Gas Pipe Line Co.	Mission River*	Tex.	Refugio*	10 26 66	Iss.
Juniper Oil & Gas Co.:					
CI64-17 Kansas-Nebraska Natural Gas Co., Inc.	Undesignated	Colo.	Morgan	10 7 66	Iss.
Herman Geo. Kaiser, Operator, et al.:					
G-12663 Northern Natural Gas Co.	Gingrich & F. Finnups.	Kans.	Finney	8 30 66	Iss.
CI64-1216 Kansas Colorado Utilities, Inc.	West Sparks	Kans.	Stanton	8 30 66	Iss.
CI67-20 Northern Natural Gas Co.	McKinney	Kans.	Clark	9 19 66	Iss.
CI67-21 Panhandle Eastern Pipe Line Co.	Kanok	Kans.	Seward	9 19 66	Iss.
Kanran Gas Co.:					
CI66-1139 Consolidated Gas Supply Corp.	Sherman District	W. Va.	Boone	9 19 66	Iss.
CI67-489 United Fuel Gas Co.	Elk District	W. Va.	Kanawha	12 12 66	Iss.
Kermit Oil Co.:					
CS67-6 El Paso Natural Gas Co.	Spraberry Trend	Tex.	Reagan	11 14 66	Iss.
George R. Kerns:					
CI66-978 Carnegie Natural Gas Co.	McElroy District	W. Va.	Monongalia	7 11 66	Iss.
Kerr-McGee Corp.:					
CI62-74 Colorado Interstate Gas Co.	Mocane	Okla.	Beaver	10 7 66	Iss.
CI67-279 Mountain Fuel Supply Co.	Pole Gulch Unit	Colo.	Moffat	11 1 66	Iss.
CI67-325 Panhandle Eastern Pipe Line Co.	Keyes	Okla.	Cimarron	11 22 66	Iss.
Kewanee Oil Co.:					
CS66-12 Panhandle Eastern Pipe Line Co.*	Undesignated	Tex*	Undesignated	7 20 66	Iss.

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NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION[1]
Bradley H. Keyes:					
G-12724 El Paso Natural Gas Co.	Fulcher*	N. Mex	San Juan	11 22 66	Iss.
CI66-1287 El Paso Natural Gas Co.	Aztec Pictured Cliff	N. Mex	San Juan	8 15 66	Iss.
Killam & Hurd, Operator, et al.:					
CI63-1357 South Texas Natural Gas Gathering Co.	West Mirando City	Tex	Webb	10 17 66	Iss.
Alberta S. Kimball:					
CS66-87 Tennessee Gas Pipeline Co., a Division of Tenneco Inc.*	Matagorda*	Tex*	Jefferson*	7 20 66	Iss.
Kimbark Exploration, Ltd., Operator, et al.:					
CI67-362 Kansas-Nebraska Natural Gas Co., Inc.	Cayuse	Colo	Logan	11 22 66	Iss.
Roy E. Kimsey, Operator, et al.:					
CS66-66 El Paso Natural Gas Co.	Noekle NE Queen Sand.	Tex	Crockett	7 20 66	Iss.
King Resources Co.:					
CI67-273 Northern Natural Gas Co.	Southwest	Okla	Ellis	11 1 66	Iss.
Robert E. King:					
CI63-1130 Arkansas Louisiana Gas Co.	Ada	La	Bienville	12 12 66	Iss.
C.L. Kingsbury, et al.:					
CI66-1175 Consolidated Gas Supply Corp.	Washington District	W. Va	Calhoun	8 4 66	Iss.
Kingwood Oil Co.:					
CI66-1253 Northern Natural Gas Co.	North Ivanhoe	Okla	Beaver	8 10 66	Iss.
CI66-1288 Northern Natural Gas Co.	North Ivanhoe	Okla	Beaver	8 15 66	Iss.
CI67-291 Northern Natural Gas Co.	Catesby Area	Okla	Ellis	12 21 66	Iss.
A. G. Kirschmer:					
CI67-161 El Paso Natural Gas Co.	East Panhandle	Tex	Wheeler	10 17 66	Iss.
T. W. Kleinpeter:					
CI66-31 Transcontinental Gas Pipe Line Corp.	Rousseau	La	Lafourche	8 15 66	Iss.
Fred H. Knapp, et al., d/b/a Knapp Oil & Gas Co.:					
CI66-971 Carnegie Natural Gas Co.	Center District	W. Va	Wetzel	8 15 66	Iss.
L & H Drilling Co., Inc., Operator, et al.:					
CI67-187 Texas Gas Transmission Corp.	New Hope	Ky	Hopkins	10 26 66	Iss.
Lab Oil Co.:					
CI66-713 Tennessee Gas Pipeline Co., a Division of Tenneco Inc.	West Callaboose	Tex	San Patricio	8 30 66	Iss.
J. A. Lafortune:					
CI66-1140 Cities Service Gas Co.	South Bishop Area	Okla	Ellis	9 19 66	Iss.

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NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION[1]
Robert P. Lammerts:					
CI66-1286 Panhandle Eastern Pipe Line Co.	Mocane	Okla.	Beaver	7 5 66	Rej.
Landa Oil Co.:					
G-2933 Texas Eastern Transmission Corp.	Waskom	Tex.	Harrison	9 20 66	Iss.
G-14198 United Gas Pipe Line Co.	North Lardsa	Tex.	Refugio	9 20 66	Iss.
G-15035 Arkansas Louisiana Gas Co.	Waskom	Tex.	Harrison	9 30 66	Iss.
G-16271 Mississippi River Transmission Corp.	Caddo Lake	Tex.	Harrison	9 30 66	Iss.
CI62-305 Tennessee Gas Pipeline Co., a Division of Tenneco Inc.	Bayou Rambio	La.	Terrebonne	9 30 66	Iss.
CI64-580 Panhandle Eastern Pipe Line Co.	Valley Center West	Okla.	Dewey	9 30 66	Iss.
Landmark Oil, Inc., et al.:					
CS66-125 El Paso Natural Gas Co.	Undesignated	Tex.	Upton	8 11 66	Iss.
G. B. Langford & D. W. Fox, Agents:					
CI66-927 Carnegie Natural Gas Co.	Clay District	W. Va.	Ritchie	8 4 66	Iss.
Larco Drilling Co.:					
CI66-1158 United Gas Pipe Line Co.	South Magee	Miss.	Simpson*	7 11 66	Iss.
CI67-141 United Gas Pipe Line Co.	Gitano	Miss.	Jones	10 7 66	Iss.
Fred Larue:					
CI66-805 United Gas Pipe Line Co.	Pistol Ridge	Miss.	Forrest	9 8 66	Iss.
Leonard Latch, et al.:					
CS67-3 El Paso Natural Gas Co.	Undesignated	Tex.	Cochran	9 27 66	Iss.
Reeves Lewenthal:					
CI65-901 Consolidated Gas Supply Corp.	Sherman*	W. Va.	Calhoun*	8 30 66	Iss.
CI65-1303 Consolidated Gas Supply Corp.	Lee District	W. Va.	Calhoun	8 30 66	Iss.
CI66-361 Consolidated Gas Supply Corp.	Washington District	W. Va.	Calhoun	8 30 66	Iss.
Edward F. Leyhe:					
CS66-86 Tennessee Gas Pipeline Co., a Division of Tenneco Inc.	Undesignated	La.	Plaquemines	7 20 66	Iss.
O. J. Lilly:					
CI66-838 El Paso Natural Gas Co.	Ballard Pictured Cliffs.	N. Mex.	San Juan	7 11 66	Iss.
CI66-839 El Paso Natural Gas Co.	Basin Dakota	N. Mex.	San Juan	10 7 66	Iss.
Robert Lindholm, et al.:					
CI61-295 Consolidated Gas Supply Corp.	Glenville District	W. Va.	Gilmer	11 7 66	Iss.
CI61-843 Consolidated Gas Supply Corp.	Court House District.	W. Va.	Lewis	11 7 66	Iss.

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NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION[1]
Livingston Oil Co.:					
G-19166 Wunderlich Development Co.	Undesignated	Okla.	Kay	9 19 66	Iss.
CI61-1122 Cities Service Gas Co.	Lucien	Okla.	Noble	9 19 66	Iss.
CI62-699 Wunderlich Development Co.	Undesignated	Okla.	Kay	9 19 66	Iss.
CI62-1067 Cities Service Gas Co.	Lucien	Okla.	Noble	9 19 66	Iss.
CI62-1322 Wunderlich Development Co.	Southwest Autwine	Okla.	Kay	9 19 66	Iss.
CI66-1326 Wunderlich Development Co.	Undesignated	Okla.	Kay	9 19 66	Iss.
CI67-295 Panhandle Eastern Pipe Line Co.	South Peek	Okla.	Ellis	11 1 66	Iss.
Lock 3 Oil, Coal & Dock Co., et al.:					
CI66-1172 Consolidated Gas Supply Corp.	Warren District	W. Va.	Upshur	8 4 66	Iss.
CI67-373 Cumberland & Allegheny Gas Co.	Warren District	W. Va.	Upshur	12 1 66	Iss.
Lone Star Producing Co.:					
CI67-220 Arkansas Louisiana Gas Co.	North Spiro Area	Okla.	Le Flore	10 26 66	Iss.
Estate of Ralph Lowe, et al.:					
CI66-895 Northern Natural Gas Co.	Coyanosa	Tex.	Pecos	8 10 66	Iss.
Grace L. Luikart:					
CI67-177 Carnegie Natural Gas Co.	Center District	W. Va.	Wetzel	11 1 66	Iss.
Luling Oil & Gas Co., Inc., Operator, et al.:					
CI67-264 United Gas Pipe Line Co.	Ceasar	Tex.	Karnes	11 1 66	Iss.
E. L. Lusher:					
CI67-588 United Fuel Gas Co.	Undesignated	W. Va.	Mingo	12 20 66	Iss.
Hall M. Lyons, Operator, et al.:					
CI67-74 Texas Eastern Transmission Corp.	Ravenswood	La.	Pointe Coupee	9 19 66	Iss.
MWJ Producing Co.:					
CI66-749 El Paso Natural Gas Co.	Undesignated	Tex.	Reagan	7 11 66	Iss.
Mactay Investment Co., Inc., et al.:					
CI66-1189 Consolidated Gas Supply Corp.	Skin Creek District	W. Va.	Lewis	8 4 66	Iss.
G. E. McBride:					
CI67-231 Transwestern Pipeline Co.	South Griggs	Okla.	Cimarron	11 1 66	Iss.
Jack O. McCall:					
CS67-17 El Paso Natural Gas Co.	Gomez	Tex.	Pecos	11 14 66	Iss.
Sanford E. McCormick:					
CI67-348 United Gas Pipe Line Co.	Riverside Caddell Area.	Tex.	Walker	11 22 66	Iss.
D. E. McCullough, d/b/a Associated Producers:					
G-5657 Consolidated Gas Supply Corp.	McKim District	W. Va.	Pleasants	8 10 66	Iss.

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NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION[1]
John J. McDonnell:					
CI66-1177 Consolidated Gas Supply Corp.	Union District*	W. Va.	Ritchie	8 4 66	Iss.
Estate of T. H. McElvain, et al.:					
CI67-91 El Paso Natural Gas Co.	Basin Dakota	N. Mex.	Rio Arriba	9 19 66	Iss.
E. B. McFarlin & E. P. Ketchum:					
CI67-235 Transcontinental Gas Pipe Line Corp.	Sambo	La.	St. Landry	10 26 66	Iss.
CS66-140 El Paso Natural Gas Co.	Undesignated	Tex*	Crockett	9 7 66	Iss.
McGrath & Smith, Inc., Operator, et al.:					
CS66-101 El Paso Natural Gas Co.	Spraberry	Tex.	Upton	7 20 66	Iss.
CS67-19 El Paso Natural Gas Co.	Undesignated	Tex.	Undesignated	11 14 66	Iss.
Harold S. McKay:					
CI67-112 Consolidated Gas Supply Corp.	Houston Township	Pa.	Clearfield	10 17 66	Iss.
W. L. McKnight:					
CI61-1546 Transwestern Pipeline Co.	Undesignated	Tex.	Ochiltree	9 20 66	Iss.
Carl M. McKnown, et al.:					
CI66-603 Equitable Gas Co.	Glenville District	W. Va.	Gilmer	8 10 66	Iss.
Magness Petroleum Co.:					
CI67-635 Northern Natural Gas Co.	Undesignated	Okla.	Harper	12 21 66	Iss.
Mann Drilling Co., et al.:					
CI66-1199 Consolidated Gas Supply Corp.	Central District	W. Va.	Doddridge	8 4 66	Iss.
Marathon Oil Co.:					
CI62-1477 Transwestern Pipeline Co.	Undesignated	Tex.	Lipscomb	9 20 66	Iss.
Markham, Cone & Redfern:					
CS66-70 Gulf Oil Corp.	Drinkard	N. Mex.	Lea	7 20 66	Iss.
Marshall R. Young Oil Co.:					
G-12245 United Gas Pipe Line Co.	Ansley	Miss.	Hancock	10 17 66	Iss.
Mary Lee Massey, et al.:					
CI66-1344 Equitable Gas Co.	Glenville District	W. Va.	Gilmer	8 30 66	Iss.
CI66-1345 Equitable Gas Co.	Glenville District	W. Va.	Gilmer	8 30 66	Iss.
W. T. Massey & Harry A. Moore, d/b/a Massey & Moore:					
CI67-110 Cities Service Gas Co.	Redrock	Okla.	Noble	10 7 66	Iss.
Maxwell Oil Co., Operator, et al.:					
CI67-604 Northern Natural Gas Co.	Kiowa Creek	Tex.	Lipscomb	12 21 66	Iss.
CS66-2 El Paso Natural Gas Co.	Jack Herbert	Tex.	Upton	7 20 66	Iss.
Maxwell D. Simmons, Operator, Inc., Operator, et al.:					
CI66-1219 Lone Star Gas Co.	Danville	Tex.	Rusk	8 3 66	Rej.
May Petroleum, Inc.:					
CI67-244 Arkansas Louisiana Gas Co.	North Drummond Area.	Okla.	Garfield*	9 15 66	Rej.
CI67-530 Arkansas Louisiana Gas Co.	North Drummond Area.	Okla.	Garfield*	12 20 66	Iss.

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NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION [1]
May Petroleum, Inc., et al.:					
CI67-587 Cities Service Gas Co.	Waynoka	Okla	Woods	12 20 66	Iss.
Mayflo Oil Co.:					
CI61-247 Transwestern Pipeline Co.	Undesignated	Tex	Ochiltree	9 20 66	Iss.
G. E. Meabon, Agent:					
CI67-555 United Fuel Gas Co.	Carroll District	W. Va	Lincoln	12 21 66	Iss.
CI67-556 United Fuel Gas Co.	Laurel Hill District	W. Va	Lincoln	12 21 66	Iss.
Meadco Properties Ltd., et al.:					
CS67-18 El Paso Natural Gas Co.	Undesignated	Tex	Undesignated	11 14 66	Iss.
J. Gregory Merrion, et al.:					
CI66-1036 El Paso Natural Gas Co.	Flora Vista Mesa Verde.	N. Mex	San Juan	9 16 66	Iss.
CI66-1213 El Paso Natural Gas Co.	Undesignated (Chacra).	N. Mex	Rio Arriba	8 4 66	Iss.
Mesa Petroleum Co.:					
CI67-237 Northern Natural Gas Co.	Gooch	Okla	Texas	10 26 66	Iss.
CI67-361 Natural Gas Pipeline Co. of America.	Upper Morrow	Tex	Hansford	11 22 66	Iss.
Micoa, Inc.:					
G-5942 Equitable Gas Co	Summersville District	W. Va	Nicholas	12 21 66	Iss.
Mid-East Oil Co.:					
CI67-346 Consolidated Gas Supply Corp.	Undesignated	Pa	Jefferson	12 6 66	Iss.
Midwest Oil Corp.:					
CI67-14 Arkansas Louisiana Gas Co.	Backbone Area	Okla	Le Flore	8 22 66	Iss.
CI67-224 Panhandle Eastern Pipe Line Co.	South Peek	Okla	Ellis	10 14 66	Iss.
Miles Kimball Co.:					
CS66-85 United Gas Pipe Line Co.*	Morehead*	La.*	Undesignated	7 20 66	Iss.
Allerton Miller:					
CI67-620 Cumberland & Allegheny Gas Co.	Buckhannon	W. Va	Upshur	12 21 66	Iss.
George W. Miller, et al.:					
CI66-1187 Consolidated Gas Supply Corp.	Dekalb District	W. Va	Gilmer	8 4 66	Iss.
Mingo-Martin Gas Corp.:					
CI67-524 United Fuel Gas Co.	Kermit District	W. Va	Mingo	12 12 66	Iss.
Miss-Tex Oil Producers:					
CI67-198 Southern Natural Gas Co.	Hub	Miss	Marion	10 26 66	Iss.
Mobil Oil Corp.:					
CI66-894 Panhandle Eastern Pipe Line Co.	Panhandle	Tex	Moore	8 4 66	Iss.
CI67-89 Northern Natural Gas Co.	Gatelake*	Okla	Harper	9 19 66	Iss.
W. A. Moncrief, Operator, et al.:					
CI66-1245 Arkansas Louisiana Gas Co.	Excelsior	Tex	Marion	8 4 66	Iss.
Monsanto Co., Operator, et al.:					
CI67-123 El Paso Natural Gas Co.	Aneth Area	Utah	San Juan	10 7 66	Iss.
CI67-286 Arkansas Louisiana Gas Co.	Arkoma Area	Okla	Le Flore	11 1 66	Iss.
CI67-235 Arkansas Louisiana Gas Co.	Clay	La	Lincoln	12 12 66	Iss.

See footnotes at end of table, p. 1221.

NEW SERVICE CERTIFICATES—Continued

PRODUCER‡, DOCKET NO. AND PURCHASER‡	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION [1]
Don D. Montgomery & Don D. Montgomery, Jr.:					
CI66-1308 Cities Service Gas Co.	Kelsey Unit	Okla.	Woods	8 15 66	Iss.
CI67-236 Equitable Gas Co.	Troy District	W. Va.	Gilmer	10 26 66	Iss.
CI67-354 Equitable Gas Co.	Dekalb District	W. Va.	Gilmer	12 1 66	Iss.
Moran Bros., Inc., Operator, et al.:					
CI67-77 Cities Service Gas Co.	March Mississippian	Kans.	Seward	9 19 66	Iss.
Dave Morgan, Operator, et al.:					
CI66-1119 Cities Service Gas Co.	North Otstot Extension.	Okla.	Kay	7 11 66	Iss.
Winnie Fae Morris, et al.:					
CI66-1203 Consolidated Gas Supply Corp.	Murphy District	W. Va.	Ritchie	8 4 66	Iss.
Albert C. Muse, et al.:					
CS66-133 El Paso Natural Gas Co.*	Amacker-Tippett	Tex.	Upton	8 11 66	Iss.
J. B. Myers Oil Properties:					
CI66-1168 Landa Oil Co.	Orange Grove	Tex.	Jim Wells	10 7 66	Iss.
N. V. Duncan Drilling Co., Operator, et al.:					
CI64-167 Arkansas Louisiana Gas Co.	N. E. Ames	Okla.	Major	8 4 66	Iss.
Neleh Gas & Oil Corp., Operator:					
CS66-121 Northern Natural Gas Co.	South Tippett	Tex.	Pecos	7 20 66	Iss.
Ne-O-Tex Corp.:					
CI67-28 Natural Gas Pipeline Co. of America.	Camerick	Okla.	Beaver	8 30 66	Iss.
CS67-15 El Paso Natural Gas Co.	Texas	Undesignated.	Undesignated	12 20 66	Iss.
O. A. Newbrough, et al.:					
CI66-1194 Consolidated Gas Supply Corp.	Murphy District	W. Va.	Ritchie	8 4 66	Iss.
L. J. Nicholson, et al.:					
CI66-1193 Consolidated Gas Supply Corp.	Greenbrier District	W. Va.	Doddridge	8 4 66	Iss.
North Central Oil Corp., Operator, et al.:					
CS67-8 Tennessee Gas Pipeline Co., a Division of Tenneco Inc.	Undesignated	Tex.*	Matagorda*	12 20 66	Iss.
O. F. & R. Oil Co.:					
G-19681 El Paso Natural Gas Co.	Spraberry Area	Tex.	Reagan	12 21 66	Iss.
CI67-310 El Paso Natural Gas Co.	Spraberry Area	Tex.	Reagan	12 21 66	Iss.
Garold M. Oakes:					
CI66-1118 Pennsylvania Gas Co.	Sheffield Township	Pa.	Warren	7 11 66	Iss.
Odessa Natural Gasoline Co.:					
CI67-22 Northern Natural Gas Co.	Undesignated	Okla.	Woodward	8 30 66	Iss.
CI67-343 Panhandle Eastern Pipe Line Co.	South Peek	Okla.	Ellis	12 1 66	Iss.
Ohio-West Virginia Oil and Gas Co.:					
CI66-1040 Penova Interests	Grant District	W. Va.	Ritchie	7 11 66	Iss.
Oil Industries Associates:					
CI67-320 Equitable Gas Co.	Clay District	W. Va.	Ritchie	11 7 66	Iss.

See footnotes at end of table, p. 1221.

NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#		FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION [1]
Oil Producers, Inc.:						
CI61-1627	Equitable Gas Co.	Collins Settlement District.	W. Va.	Lewis	8 4 66	Iss.
CI62-252	Equitable Gas Co.	Court House District.	W. Va.	Lewis	8 4 66	Iss.
CI62-907	Consolidated Gas Corp.	Collins Settlement District.	W. Va.	Lewis	8 4 66	Iss.
Oil Well Drilling Co., et al.:						
CI66-1143	Valley Gas Transmission, Inc.	Chatham	La.	Jackson	8 22 66	Iss.
CI66-1305	Valley Gas Transmission, Inc.	Chatham	La.	Jackson	8 30 66	Iss.
CS66-41	Phillips Petroleum Co.*	Harper*	Tex.*	Lee*	7 20 66	Iss.
Oklahoma Natural Gas Co.:						
CI61-931	Transwestern Pipeline Co.	Undesignated	Okla.	Ellis	9 20 66	Iss.
CI62-198	Transwestern Pipeline Co.	Undesignated	Okla.	Beaver	9 20 66	Iss.
CI66-1312	El Paso Natural Gas Co.	Ft. Stockton	Tex.	Pecos	12 12 66	Iss.
W. B. Osborn, Jr., Operator, et al.:						
CI67-390	Colorado Interstate Gas Co.*	Hugoton	Kans.	Kearny*	11 7 66	Iss.
J. P. Owen:						
CI66-1311	Michigan Wisconsin Pipe Line Co.	Jeanerette	La.	St. Mary	9 19 66	Iss.
John C. Oxley, et al.:						
CI66-1155	Cities Service Gas Co.	Bishop	Okla.	Ellis	8 22 66	Iss.
Pacific Natural Gas Exploration Co., Operator, et al.:						
CI66-618	Grand Valley Transmission Co.	Moonridge Segundo Area.	Utah	Grand	7 11 66	Iss.
Pan American Petroleum Corp.:						
G-17511	Texas Eastern Transmission Corp.	Carthage	Tex.	Rusk*	9 20 66	Iss.
CI61-813	Transwestern Pipeline Co.	Kiowa Creek*	Tex.	Lipscomb*	9 20 66	Iss.
CI61-814	Transwestern Pipeline Co.	Mocane	Okla.	Beaver	9 20 66	Iss.
CI61-967	Transwestern Pipeline Co.	Undesignated	Okla.	Beaver	9 20 66	Iss.
CI61-981	Transwestern Pipeline Co.	Mocane	Okla.	Beaver	9 20 66	Iss.
CI61-1428	El Paso Natural Gas Co.	Big Piney	Wyo.	Sublette*	9 20 66	Iss.
CI63-390	El Paso Natural Gas Co.	Flodine Park	Colo.	Montezuma	9 20 66	Iss.
CI63-1293	Transwestern Pipeline Co.	Ellis Ranch	Tex.	Ochiltree	9 20 66	Iss.
CI64-917	Natural Gas Pipeline Co. of America.	Boonesville	Tex.	Jack	9 20 66	Iss.
CI64-964	El Paso Natural Gas Co.	Bita Peak	Ariz.	Apache	9 20 66	Iss.
CI65-95	El Paso Natural Gas Co.	Ute Dome Paradox	N. Mex.	San Juan	9 20 66	Iss.

See footnotes at end of table, p. 1221.

NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#		FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION [1]
Pan American Petroleum Corp.—Continued						
CI65-956	Southern Natural Gas Co.	Quitman Bayou	Miss	Adams	10 17 66	Iss.
CI66-262	Michigan Wisconsin Pipe Line Co.	Calcasieu Lake	La	Cameron	9 8 66	Iss.
CI66-801	Lone Star Gas Co.	Danville	Tex	Gregg	8 15 66	Iss.
CI66-1000	El Paso Natural Gas Co.	Three Bar	Tex	Andrews	7 11 66	Iss.
CI67-117	Michigan Wisconsin Pipe Line Co.	Del Plains	Okla	Major	10 26 66	Iss.
CI67-133	Natural Gas Pipeline Co. of America.	Indian Basin	N. Mex	Eddy	10 26 66	Iss.
CI67-302	Transwestern Pipeline Co.	Kermit	Tex	Winkler	12 21 66	Iss.
CI67-307	Northern Natural Gas Co.	Upper Morrow	Tex	Hansford	11 1 66	Iss.
CI67-308	Natural Gas Pipeline Co. of America.	North Fort Supply	Okla	Harper	11 1 66	Iss.
CI67-317	Northern Natural Gas Co.	Various	Tex	Beaver*	11 1 66	Iss.
CI67-323	Michigan Wisconsin Pipe Line Co.	Woodward Area	Okla	Major	11 7 66	Iss.
CI67-401	Northern Natural Gas Co.	Undesignated	Kans	Haskell	12 1 66	Iss.
CI67-474	Panhandle Eastern Pipe Line Co.	Interstate	Kans	Morton	12 6 66	Iss.
CI67-526	Natural Gas Pipeline Co. of America.	Mobeetie	Tex	Wheeler	12 12 66	Iss.
CI67-527	Panhandle Eastern Pipe Line Co.	Undesignated	Okla	Undesignated	11 3 66	Iss.
CI67-546	Transwestern Pipeline Co.	N. E. Catesby	Okla	Ellis	12 20 66	Iss.
CI67-607	Mountain Fuel Supply Co.	Powder Wash	Colo	Moffat	12 21 66	Iss.
CI67-619	El Paso Natural Gas Co.	Mickelson Creek	Wyo	Sublette	12 21 66	Iss.
Pauley Petroleum Inc.:						
CI67-206	El Paso Natural Gas Co.	Cotton Draw Unit Area.	N. Mex	Lea*	11 7 66	Iss.
Payne Producing Co.:						
CI66-1242	United Gas Pipe Line Co.	West Calallen	Tex	Nueces	8 4 66	Iss.
Lee Pearson, Operator, et al.:						
CI66-966	El Paso Natural Gas Co.	Aztec Fruitland	N. Mex	San Juan	10 7 66	Iss.
Pel-Tex Petroleum Co., Inc., Operator, et al.:						
CI67-478	Plaquemines Oil & Gas Co., Inc.	Cox Bay	La	Plaquemines	12 6 66	Iss.
Tom W. Penn:						
CI67-577	Trunkline Gas Co.	East Huffsmith	Tex	Harris	12 20 66	Iss.
Pennzoil Co.:						
CI67-372	Pennsylvania Gas Co.	Cooper	Pa	Warren	12 1 66	Iss.
Pete Perri, et al.:						
CI67-263	Carnegie Natural Gas Co.	Troy District	W. Va	Gilmer	11 1 66	Iss.

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NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION[1]
Howard J. & N. T. Perry:					
CI66-918 Pennsylvania Gas Co.	Sheffield Township	Pa	Warren	8 22 66	Iss.
Petroleum Corp. of Tex.:					
G-4997 Natural Gas Pipeline Co. of America.	East Falurrias	Tex	Brooks*	8 15 66	Iss.
G-8156 United Gas Pipe Line Co.	North McFadden	Tex	Victoria	8 4 66	Iss.
G-16768 El Paso Natural Gas Co.	Jalmat*	N. Mex	Lea	8 15 66	Iss.
G-20374 El Paso Natural Gas Co.	Jalmat*	N. Mex	Lea	8 15 66	Iss.
CI61-1157 El Paso Natural Gas Co.	Jalmat*	N. Mex	Lea	9 19 66	Iss.
Petroleum Distributors, Inc.:					
CI63-303 El Paso Natural Gas Co.	Undesignated	N. Mex	Rio Arriba*	12 21 66	Iss.
CI63-1536 El Paso Natural Gas Co.	Undesignated	N. Mex	Rio Arriba	12 21 66	Iss.
CI64-1101 El Paso Natural Gas Co.	Undesignated	Colo	La Plata	12 21 66	Iss.
CI65-437 El Paso Natural Gas Co.	Undesignated	Colo	San Juan*	12 21 66	Iss.
Petroleum, Inc.:					
CI66-1126 Kansas-Nebraska Natural Gas Co., Inc.	Bradshaw Gas	Kans	Hamilton	7 11 66	Iss.
CI67-513 Northern Natural Gas Co.	Camrick	Okla	Texas	12 12 66	Iss.
Petroleum Management, Inc., Miss.:					
CI67-185 Humble Gas Transmission Co.	Buckner	La	Richland	10 26 66	Iss.
Petroleum Property Management, Inc., Agent:					
G-19213 United Gas Pipe Line Co.	North Lewisburg	La	St. Landry	8 22 66	Iss.
Petroleum Resources, Inc.:					
CI66-1176 Consolidated Gas Supply Corp.	Collins Settlement District.	W. Va	Lewis	8 4 66	Iss.
Philadelphia Oil Co.:					
CI66-1218 Equitable Gas Co.	Dekalb District*	W. Va	Gilmer*	8 4 66	Iss.
Phillips Petroleum Co.:					
G-8324 Northern Natural Gas Co.	Spraberry Trend	Tex	Upton*	11 1 66	Iss.
G-19571 Trunkline Gas Co.	Alta Loma	Tex	Galveston	12 21 66	Iss.
CI60-611 Transwestern Pipeline Co.	Undesignated	Okla.*	Cimarron*	9 20 66	Iss.
CI66-1280 Southern Natural Gas Co.	Kelly	La	Jackson Parish	8 4 66	Iss.
Pioneer Production Corp.:					
CI67-119 Panhandle Eastern Pipe Line Co.	South Peek	Okla	Ellis	10 14 66	Iss.
Clarence Powell, Agent:					
CI66-1181 Consolidated Gas Supply Corp.	New Milton	W. Va	Doddridge	8 4 66	Iss.
Prenalta Corp., Operator, et al.:					
CI67-360 Colorado Interstate Gas Co.	Desert Springs Area	Wyo	Sweetwater	12 1 66	Iss.

See footnotes at end of table, p. 1221.

NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION[1]
Priddie Oil & Gas Co.:					
CI67-480 United Fuel Gas Co.	Big Injun	W. Va	Wayne	12 12 66	Iss.
L. W. Prunty:					
CI66-1010 Carnegie Natural Gas Co.	Union District	W. Va	Ritchie	8 4 66	Iss.
Pubco Petroleum Corp.:					
CI67-640 Mountain Fuel Supply Co.	West Side Canal Area	Colo	Moffat	12 21 66	Iss.
Publishers Petroleum, a Division of Oklahoma Publishing Co.					
CI67-102 Colorado Interstate Gas Co.	Adams Ranch	Kans	Meade	9 30 66	Iss.
A. A. Pursley:					
CI64-1249 Consolidated Gas Supply Corp.	Center District	W. Va	Gilmer	8 30 66	Iss.
A. C. Radford, Trustee:					
CI66-1225 Kentucky-West Virginia Gas Co.	Brushy Fork of Blainek.	Ky	Lawrence	8 4 66	Iss.
C. F. Raymond, et al.:					
CI67-400 Kansas-Nebraska Natural Gas Co., Inc.	Bonanza	Colo	Logan	12 6 66	Iss.
David D. Read, Jr., et al.:					
CI67-616 Northern Natural Gas Co.	Six Mile	Okla	Beaver	12 21 66	Iss.
Redfern Development Corp.:					
CI67-252 Panhandle Eastern Pipe Line Co.	South Peek	Okla	Ellis	10 14 66	Iss.
Howard M. Redwine:					
CI67-281 Arkansas Louisiana Gas Co.	Southeast Spiro	Okla	Le Flore	11 1 66	Iss.
Regent Gas Producers, Inc., Operator, et al.:					
CI65-303 Consolidated Gas Supply Corp.	Sherman District	W. Va	Boone	9 8 66	Iss.
H. W. Regester:					
CS66-135 Northern Natural Gas Co.	Prentice	Tex	Terry*	8 11 66	Iss.
E. E. Reigle, d/b/a Richmond Drilling Co.:					
CS66-84 El Paso Natural Gas Co.	Langlie-Mattix	N. Mex.*	Lea*	7 20 66	Iss.
Reserve Oil & Gas Co., Operator, et al.:					
CS66-72 Texas Gas Transmission Corp.*	Undesignated	Tex	Jefferson	7 20 66	Iss.
Rex Drilling Co., et al.:					
CI66-1174 Consolidated Gas Supply Corp.	Grant District	W. Va	Doddridge	8 4 66	Iss.
Charles J. Richard:					
CI67-47 Arkansas Louisiana Gas Co.	East Medford	Okla	Grant	9 8 66	Iss.
CI67-103 Cities Service Gas Co.	Southwest Wakita	Okla	Grant	9 30 66	Iss.
Richome Oil & Gas Co.:					
CI67-265 El Paso Natural Gas Co.	West Panhandle	Tex	Gray	11 1 66	Iss.
Ridgmorr Oil Co., Operator, et al.:					
G-20337 Transwestern Pipeline Co.	Undesignated	Tex	Ochiltree	9 20 66	Iss.

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NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION [1]
Rilan Corp.:					
CS66-134 El Paso Natural Gas Co.*	Amacker-Tippett	Tex	Upton	8 11 66	Iss.
Robbins Petroleum Corp., Operator, et al.:					
CI66-1207 Lone Star Gas Co.	North Henderson Area	Tex	Rusk	8 22 66	Iss.
CI66-1217 Lone Star Gas Co.	Pone Area	Tex	Rusk	8 3 66	Rej.
Glen W. Roberts:					
CI66-1178 Consolidated Gas Supply Corp.	Lee District	W. Va	Calhoun	8 4 66	Iss.
D. J. Robichaux, Jr.:					
CI66-30 Transcontinental Gas Pipe Line Corp.	Rousseau	La	Lafourche	8 15 66	Iss.
Robinson Petroleum Corp., Operator, et al.:					
CI66-1313 El Paso Natural Gas Co.	Panhandle	Tex	Wheeler	8 30 66	Iss.
E. G. Rodman:					
CI67-97 Northern Natural Gas Co.	Undesignated	Okla	Woodward	9 19 66	Iss.
CS66-50 El Paso Natural Gas Co.	Spraberry Trend	Tex	Upton*	11 7 66	Iss.
CS66-51 El Paso Natural Gas Co.*	Jalmat*	N. Mex.*	Lea*	11 7 66	Iss.
Rodman & Late:					
CS66-48 El Paso Natural Gas Co.	Spraberry Trend	Tex	Reagan	11 7 66	Iss.
Rodman Oil Co.:					
CS66-49 West Lake Natural Gasoline Co.*	Nena Lucia*	Tex	Nolan*	11 7 66	Iss.
Rodman Petroleum Corp., Operator, et al.:					
CS66-52 Transwestern Pipeline Co.*	Crawar*	Tex	Ward*	11 7 66	Iss.
Howard C. Roush, d/b/a Roush Machine Co., Operator, et al.:					
G-18333 Cities Service Gas Co.	Tryon	Okla	Lincoln	9 19 66	Iss.
M. B. Rudman:					
CS67-4 Texas Gas Transmission Corp.*	Calhoun*	Tex	Pecos	11 14 66	Iss
William C. Russell, Operator, Agent:					
G-20368 El Paso Natural Gas Co.	Fulcher Kutz Pictured Cliffs.	N. Mex	San Juan	10 17 66	Iss.
Ryan Consolidated Petroleum Corp.:					
CS66-137 Northern Natural Gas Co.	Undesignated	Tex	Crockett	8 11 66	Iss.
The Sabinol Corp., Operator, et al.:					
CI67-642 United Gas Pipe Line Co.	Blue Buck Point	La	Cameron	12 21 66	Iss.
Sage Gas Gathering Co.:					
CI65-920 Valley Gas Transmission, Inc.	Buena Suerta	Tex	Duval	8 30 66	Iss.
St. Helens Petroleum Corp.:					
CI67-137 Transcontinental Gas Pipe Line Corp.	Block 113 Unit	La	Ship Shoal Area.	12 1 66	Iss.

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NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION[1]
Samedan Oil Corp., Operator, et al.:					
CI62-354 Lone Star Gas Co.	Sholem Alechem	Okla.	Carter	12 21 66	Iss.
Estate of S. J. Sarkeys:					
CI63-730 Michigan Wisconsin Pipe Line Co.	Woodward Area	Okla.	Dewey	8 15 66	Iss.
CI63-738 Panhandle Eastern Pipe Line Co.	Undesignated	Okla.	Dewey	8 15 66	Iss.
J. A. Schill, et al.:					
CI66-1164 United Natural Gas Co.	Knox Township*	Pa.	Clarion	8 4 66	Iss.
French A. See:					
CI67-618 Equitable Gas Co.	Collins Settlement District.	W. Va.	Lewis	11 25 66	Rej.
C. S. Sentell, M.D.:					
CI62-636 Arkansas Louisiana Gas Co.	Darley	La.	Claiborne	12 20 66	Iss.
Service Drilling Co., et al.:					
CI61-685 Transwestern Pipeline Co.	Undesignated	Okla.	Beaver	9 20 66	Iss.
Service Gas Products Co., Operator, et al.:					
CI66-853 Panhandle Eastern Pipe Line Co.	Undesignated	Okla.	Alfalfa	11 1 66	Iss.
Howard W. Sharpley:					
CI63-966 Consolidated Gas Supply Corp.	Glenville District	W. Va.	Gilmer	8 30 66	Iss.
CI66-1240 Lone Star Gas Co.	Cain-Taylor Lease	Okla.	Garvin	8 22 66	Iss.
CI66-1241 Lone Star Gas Co.	Ashley Lease	Okla.	Garvin	8 22 66	Iss.
Ben J. Shaw:					
CI67-280 Northern Natural Gas Co.	West Sharon	Okla.	Woodward	12 21 66	Iss.
Shell Oil Co.:					
CI66-1264 Panhandle Eastern Pipe Line Co.	Northeast Gage*	Okla.	Ellis*	8 2 66	Iss.
CI66-1278 Northern Natural Gas Co.	Ellwood*	Okla.	Ellis	8 4 66	Iss.
CI66-1283 Cities Service Gas Co.	South Bishop	Okla.	Ellis	8 10 66	Iss.
CI66-1293 United Fuel Gas Co.	Lincoln	W. Va.	Wayne	8 15 66	Iss.
CI66-1294 United Fuel Gas Co.	Stonewall District	W. Va.	Wayne	8 15 66	Iss.
CI67-4 Valley Gas Transmission, Inc.	Chatham	La.	Jackson	8 22 66	Iss.
CI67-5 Valley Gas Transmission, Inc.	Chatham	La.	Jackson	8 22 66	Iss.
CI67-13 Cities Service Gas Co.	South Bishop	Okla.	Roger Mills	8 22 66	Iss.
CI67-73 El Paso Natural Gas Co.	Blinebry	N. Mex.	Lea	12 6 66	Iss.
CI67-80 Arkansas Louisiana Gas Co.	Wilburton	Okla.	Latimer	9 19 66	Iss.
CI67-139 United Fuel Gas Co.	Jefferson District	W. Va.	Lincoln	10 7 66	Iss.
CI67-327 United Fuel Gas Co.	Jefferson District	W. Va.	Lincoln	11 7 66	Iss.
Shenandoah Oil Corp.:					
CI67-223 Colorado Interstate Gas Co.	Adams Ranch	Kans.	Meade	10 26 66	Iss.

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NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION [1]
G. Fred Shewey:					
CI67-160 United Fuel Gas Co.	Hardee District	W. Va.	Mingo	10 17 66	Iss.
Robert J. Shorney:					
CI67-267 Northern Natural Gas Co.	West Sharon	Okla.	Woodward	12 21 66	Iss.
E.C. Sidwell, Operator, et al.:					
CI66-1247 El Paso Natural Gas Co.	Undesignated	Okla.	Beaver	8 10 66	Iss.
CI66-1248 El Paso Natural Gas Co.	Undesignated	Okla.	Beaver	8 22 66	Iss.
Sierra Petroleum Co., Inc.:					
CI67-409 Cities Service Gas Gas Co.	Northwest Boggs	Kans.	Barber	12 6 66	Iss.
D. J. Simmons:					
CI67-197 El Paso Natural Gas Co.	Blanco	N. Mex.	San Juan	11 1 66	Iss.
V. H. Simmons, Jr.:					
CI67-53 Lake Shore Pipe Line Co.	Bushnell	Pa.	Erie	9 8 66	Iss.
Sinclair Oil & Gas Co.:					
CI60-113 Transwestern Pipeline Co.	Undesignated	Tex.	Hansford	9 20 66	Iss.
CI60-114 Transwestern Pipeline Co.	Undesignated	Tex.	Hansford	9 20 66	Iss.
CI61-222 El Paso Natural Gas Co.	Undesignated	Tex.	Ochiltree	8 4 66	Iss.
CI61-1380 Transwestern Pipeline Co.	Undesignated	Okla.	Beaver	9 20 66	Iss.
CI66-1128 Cities Service Gas Co.	South Bishop	Okla.	Roger Mills	7 11 66	Iss.
CI66-1166 Michigan Wisconsin Pipe Line Co.	Putnam	Okla.	Dewey	10 26 66	Iss.
CI66-1231 Panhandle Eastern Pipe Line Co.	South Bishop	Okla.	Ellis	8 4 66	Iss.
CI66-1272 Texas Gas Transmission Corp.	West Arcadia	La.	Bienville	8 10 66	Iss.
CI66-1292 Trunkline Gas Co.	East Bancroft	La.	Beauregard	8 15 66	Iss.
CI66-1350 El Paso Natural Gas Co.	Mocane Laverne	Okla.	Beaver	8 30 66	Iss.
CI67-55 Michigan Wisconsin Pipe Line Co.	Lovedale	Okla.	Harper	9 8 66	Iss.
CI67-173 Northern Natural Gas Co.	Ozona	Tex.	Crockett	12 20 66	Iss.
CI67-209 Arkansas Louisiana Gas Co.	Hartshorne Area	Okla.	Pittsburg	10 26 76	Iss.
CI67-352 El Paso Natural Gas Co.	Blanco Mesa Verde	N. Mex.	San Juan	12 6 66	Iss.
CI67-363 Lone Star Gas Co.	Delaware Bend	Tex.	Cooke	11 22 66	Iss.
CI67-385 El Paso Natural Gas Co.	North Cox	Tex.	Crockett	12 21 66	Iss.
CI67-581 Northern Natural Gas Co.	Coyanosa	Tex.	Pecos	12 21 66	Iss.
Skelly Oil Co.:					
CI61-835 Transwestern Pipeline Co.	Undesignated	Okla.	Beaver*	9 20 66	Iss.
CI67-30 Cities Service Gas Co.	Undesignated	Kans.	Barber	8 22 66	Iss.

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NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION [1]
Slats Honeymon Drilling Co.:					
CI67-384 Northern Natural Gas Co.	Fort Supply-Southwest.	Okla	Ellis	12 21 66	Iss.
Lewis E. Smith:					
CI66-1205 Consolidated Gas Supply Corp.	Lee District	W. Va	Calhoun	8 4 66	Iss.
William E. Snee, et al.:					
CI66-1331 Arkansas Louisiana Gas Co.	Red Oak*	Okla	Latimer*	8 30 66	Iss.
A. M. Snider, et al., d/b/a Century Oil & Gas Co.:					
CI66-1082 Carnegie Natural Gas Co.	Center District	W. Va	Wetzel	7 11 66	Iss.
Sohio Petroleum Co.:					
CI66-1347 Natural Gas Pipeline Co. of America.	Camrick	Okla	Beaver	8 30 66	Iss.
CI67-159 Northern Natural Gas Co.	Catesby Area	Okla	Ellis	10 26 66	Iss.
CI67-199 Northern Natural Gas Co.	Mocane Area	Okla	Beaver	10 26 66	Iss.
Warren E. Souers, Agent:					
CI67-210 The Ohio Fuel Gas Co.	Sutton Township	Ohio	Meigs	11 1 66	Iss.
South Texas Development Co., Operator, et al.:					
CI67-626 Kansas-Nebraska Natural Gas Co., Inc.	North Shore	Colo	Logan	12 21 66	Iss.
Southern Union Production Co.:					
CI66-1346 Michigan Wisconsin Pipe Line Co.	Woodward Area	Okla	Major	8 22 66	Iss.
CI67-304 Southern Union Production Co.	Basin Dakota	N. Mex	San Juan	11 7 66	Iss.
Southwest Oil Industries, Inc.:					
CI66-1019 Colorado Interstate Gas Co.	Mocane-Laverne	Okla	Beaver	10 26 66	Iss.
Southwestern-Greer Estate No. 1 LTD:					
CS66-68 El Paso Natural Gas Co.	Spraberry Trend	Tex	Reagan	7 20 66	Iss.
Southwestern Natural Gas, Inc., Operator, et al.:					
CS66-127 El Paso Natural Gas Co.	Spraberry Trend*	Tex	Reagan	8 11 66	Iss.
Hugh K. Spencer:					
CI65-1321 Consolidated Gas Supply Corp.	Grant District	W. Va	Doddridge	11 7 66	Iss.
CI67-249 Carnegie Natural Gas Co.	Freeman's Creek	W. Va	Lewis	11 1 66	Iss.
R. A. Stacy, Jr.:					
CI67-597 United Gas Pipe Line Co.	Monroe	La	Union Parish	12 21 66	Iss.
Sherman Steele:					
CI66-1088 Kentucky-West Virginia Gas Co.	Inland Creek	Ky	Pike	8 4 66	Iss.
Steeple Oil & Gas Corp.:					
CI65-1180 Almos Gas Gathering Co.	Linke	Tex	Bee	10 26 66	Iss.

See footnotes at end of table, p. 1221.

NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION[1]
Stephens Production Co.:					
CI67-575 Arkansas Louisiana Gas Co.	Backbone Area	Okla	Le Flore	12 20 66	Iss.
John W. Stone, et al., d/b/a Five Star Gas Co.:					
CI67-54 United Fuel Gas Co.	Smithfield District	W. Va	Roane	9 8 66	Iss.
Joe G. Strahan:					
CI67-260 Humble Gas Transmission Co.	Richland	La	Richland Parish.	11 1 66	Iss.
Joe Stydahar, et al.:					
CI66-1191 Consolidated Gas Supply Corp.	Elk District	W. Va	Barbour	8 4 66	Iss.
C. Carroll Summers:					
G-5452 Consolidated Gas Supply Corp.	Ten Mile District	W. Va	Harrison	8 10 66	Iss.
Kenneth C. Summers, et al.:					
CI66-1270 Carnegie Natural Gas Co.	Hardbarger Run	W. Va	Ritchie	8 15 66	Iss.
Summers Oil Co.:					
CI66-1133 Pennsylvania Gas Co.	Howe Township*	Pa	Forest	12 21 66	Iss.
Sun Oil Co. Gulf Coast Division:					
CI66-376 Trunkline Gas Co.	Bayou Sale	La	St. Mary	8 4 66	Iss.
CI66-831 Texas Eastern Transmission Corp.	May	Tex	Kleberg	12 20 66	Iss.
CI66-1327 United Gas Pipe Line Co.	Baxterville	Miss	Lamar	8 30 66	Iss.
CI67-84 United Gas Pipe Line Co.	Beckwith Creek	La	Calcasieu	9 19 66	Iss.
CI67-152 Panhandle Eastern Pipe Line Co.	South Peek	Okla	Ellis	10 14 66	Iss.
CI67-172 Southern Natural Gas Co.	Quitman Bayou	Miss	Adams	10 17 66	Iss.
CI67-222 Panhandle Eastern Pipe Line Co.	S. E. Feldman Tonka.	Tex	Hemphill	10 26 66	Iss.
CI67-516 Arkansas Louisiana Gas Co.	Cheniere Creek	La	Quachita	12 12 66	Iss.
Sunray DX Oil Co.:					
CI64-784 Transwestern Pipeline Co.	Halley	Tex	Winkler	10 7 66	Wtd.
CI66-1358 Panhandle Eastern Pipe Line Co.	Tangier	Okla	Ellis*	10 17 66	Iss.
CI67-41 Northern Natural Gas Co.	North Ellis Area	Okla	Ellis	8 30 66	Iss.
Sunset International Petroleum Corp.:					
CI61-1742 Transwestern Pipeline Co.	Undesignated	Tex	Hansford*	9 20 66	Iss.
CI66-1190 Consolidated Gas Supply Corp.	Warren District	W. Va	Upshur	8 4 66	Iss.
CI67-603 Cumberland & Allegheny Gas Co.	Union District	W. Va	Upshur	12 21 66	Iss.
Tamarack Petroleum Co., Inc.:					
G-16874 Northern Natural Gas Co.	Buckhorn Ellenburger.	Tex	Crockett	12 6 66	Iss.
Tarpon Management Co., Agent:					
CI67-65 Banquete Gas Co., a Division of Crestmont Oil & Gas Co.	Odem	Tex	San Patricio	9 19 66	Iss.

See footnotes at end of table, p. 1221.

NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#		FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION [1]
Tartan Oil Co.:						
CI67-491	Cumberland Natural Gas Co., Inc.	White Plains	Ky	Hopkins	12 21 66	Iss.
Taylor Properties, Inc.:						
CI67-393	Phillips Petroleum Co.	Undesignated	Okla	Undesignated	11 8 66	Rej.
Tenneco Oil Co., Operator, et al.:						
CI66-701	Tennessee Gas Pipeline Co., a Division of Tenneco Inc.	North Davenport	Tex	Starr	10 17 66	Iss.
CI66-1260	Tennessee Gas Pipeline Co., a Division of Tenneco Inc.	South Borosa	Tex	Starr	8 10 66	Iss.
CI66-1261	El Paso Natural Gas Co.	Jicarilla Area	N. Mex	Rio Arriba	8 10 66	Iss.
CI66-1314	Trunkline Gas Co.	Lake Barre*	La	Terrebonne	10 7 66	Iss.
CI67-7	Lone Star Gas Co.	Doyle	Okla	Stephens	8 22 66	Iss.
CI67-56	Panhandle Eastern Pipe Line Co.	Northeast Gage	Okla	Ellis	10 17 66	Iss.
CI67-79	Panhandle Eastern Pipe Line Co.	South Peek	Okla	Ellis	10 14 66	Iss.
CI67-381	Northern Natural Gas Co.	Undesignated	Okla	Woodward*	12 21 66	Iss.
Terteling Land Co.:						
CI67-586	Texas Gas Transmission Corp.	Midland	Ky	Muhlenberg	12 20 66	Iss.
Tesoro Petroleum Corp.:						
CI63-963	Consolidated Gas Supply Corp.	Glenville District	W. Va	Gilmer	11 1 66	Iss.
CI67-503	Cumberland & Allegheny Gas Co.	Banks District	W. Va	Upshur	12 21 66	Iss.
Texaco Inc.:						
G-16576	Tennessee Gas Pipeline Co., a Division of Tenneco Inc.	Prasifka	Tex	Wharton	10 26 66	Iss.
G-17378	Transwestern Pipeline Co.	Undesignated	Tex	Sherman	9 20 66	Iss.
G-17379	Transwestern Pipeline Co.	Undesignated	Okla*	Cimarron*	9 20 66	Iss.
CI61-895	Transwestern Pipeline Co.	Undesignated	Tex	Ochiltree	9 20 66	Iss.
CI66-608	Natural Gas Pipeline Co. of America.	Undesignated	La	Vermilion*	11 22 66	Wtd.
CI66-1122	Texas Eastern Transmission Corp.	South Bird Island	Tex	Kleberg	7 11 66	Iss.
CI66-1284	Kansas-Nebraska Natural Gas Co., Inc.	Arrow	Colo	Washington	8 10 66	Iss.
CI67-42	El Paso Natural Gas Co.	Wilshire-Devonian	Tex	Upton	12 21 66	Iss.
CI67-50	Lone Star Gas Co.	Henderson	Tex	Rusk	10 17 66	Iss.
CI67-96	Tennessee Gas Pipeline Co., a Division of Tenneco Inc.	West Jennings	Tex	Zapata	9 19 66	Iss.

See footnotes at end of table, p. 1221.

NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION [1]
Texaco Inc.—Continued					
CI67-158 Texas Eastern Transmission Corp.	Dallas Husky	Tex	Goliad	10 17 66	Iss.
CI67-359 Michigan Wisconsin Pipe Line Co.	Putnam	Okla	Dewey	11 22 66	Iss.
CI67-468 Trunkline Gas Co.	South Tomball	Tex	Harris	12 6 66	Iss.
CI67-589 Natural Gas Pipeline Co. of America.	Mobeetie Deep	Tex	Wheeler	12 20 66	Iss.
CI67-600 Northern Natural Gas Co.	Gage Area	Okla	Ellis	12 21 66	Iss.
Texam Oil Corp., Operator, et al.:					
CS66-108 Northern Natural Gas Co.*	Undesignated	Tex	Undesignated	7 20 66	Iss.
Texas American Oil Corp.:					
CI66-471 Northern Natural Gas Co.	Ozona Canyon Southwest.	Tex	Crockett	8 10 66	Iss.
Texas Gas Exploration Corp.:					
CI64-1333 Texas Gas Transmission Corp.	Midland Gas Area	Ky	Muhlenberg	12 6 66	Iss.
CI65-933 Texas Gas Transmission Corp.	Midland	Ky	Muhlenberg	12 6 66	Iss.
CI65-1330 Grand Valley Transmission Co.	Horse Point Unit	Utah	Grand	7 11 66	Iss.
CI66-90 Texas Gas Transmission Corp.	St. Charles Area	Ky	Hopkins	12 6 66	Iss.
CI66-393 Texas Gas Transmission Corp.	Midland	Ky	Muhlenberg	8 30 66	Iss.
CI66-1310 Northern Natural Gas Co.	Anadarko Basin Area	Okla	Dewey*	8 15 66	Iss.
CI67-174 Michigan Wisconsin Pipe Line Co.	Laverne	Okla	Harper	10 17 66	Iss.
CS66-114 El Paso Natural Gas Co.*	Headlee*	Tex.*	Midland*	7 20 66	Iss.
Texas Oil & Gas Corp.:					
CI67-48 Natural Gas Pipeline Co. of America.	Undesignated	Tex	Ochiltree	9 8 66	Iss.
CI67-124 Cities Service Gas Co.	Undesignated	Tex	Hemphill	10 7 66	Iss.
Thompson & Cone, et al.:					
CS66-47 El Paso Natural Gas Co.	Jalmat	N. Mex	Lea	7 20 66	Iss.
Craft Thompson:					
CI67-595 Florida Gas Transmission Co.	Southwest Port Barre	La	St. Landry	12 21 66	Iss.
J. Cleo Thompson, Sr., Operator, et al.:					
CI67-521 United Gas Pipe Line Co.	Willmann	Tex	San Patricio	12 12 66	Iss.
Tom Kat, Inc., et al.:					
CI67-250 Cities Service Gas Co.	Undesignated	Kans	Barber	11 1 66	Iss.
John M. Traxler:					
CI66-1138 Carnegie Natural Gas Co.	Cass District	W. Va	Monongalia	8 30 66	Iss.

See footnotes at end of table, p. 1221.

NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION [1]
McKinley Trent, et al.:					
CI67-531 United Fuel Gas Co.	Undesignated	W. Va	Mingo	11 22 66	Rej.
CI67-532 United Fuel Gas Co.	Undesignated	W. Va	Mingo	11 22 66	Rej.
CI67-533 United Fuel Gas Co.	Undesignated	W. Va	Mingo	11 22 66	Rej.
CI67-534 United Fuel Gas Co.	Undesignated	W. Va	Mingo	11 22 66	Rej.
Tri Gas Co.:					
CI60-444 Trunkline Gas Co	Bryne	Tex	Bee	11 22 66	Iss.
Trigg Drilling Co.:					
CI67-639 Northern Natural Gas Co.	Undesignated	Okla	Woodward	12 21 66	Iss.
Tucker Drilling Co., Inc.:					
CS66-3 Brooks Gas Corp	Brooks	Tex	Irion	7 20 66	Iss.
W. C. Tyrell Trust:					
CS67-21 El Paso Natural Gas Co.	Gomez	Tex	Pecos	12 20 66	Iss.
U.S. Natural Gas Corp.:					
CI67-358 Colorado Interstate Gas Co.	Desert Spring Area	Wyo	Sweetwater	12 1 66	Iss.
Shirl Underwood, Agent:					
CI67-242 Carnegie Natural Gas Co.	McClellan	W. Va	Doddridge	11 1 66	Iss.
Union Oil Co. of California:					
CI66-738 Northern Natural Gas Co.	Dennison	Tex	Sutton	8 4 66	Iss.
CI67-92 United Fuel Gas Co.	Sweet Lake	La	Cameron	9 19 66	Iss.
CI67-229 El Paso Natural Gas Co.	Basin Dakota	N. Mex	Rio Arriba	11 1 66	Iss.
CI67-335 Panhandle Eastern Pipe Line Co.	Northeast Seiling	Okla	Dewey	12 6 66	Iss.
Union Producing Co.:					
CI67-18 Southern Natural Gas Co.	Plum Point	La	Jefferson*	9 19 66	Iss.
Union Texas Petroleum, a Division of Allied Chemical Corp.:					
CI67-459 Cities Service Gas Co.	South Bishop	Okla	Ellis	12 6 66	Iss.
United Mineral Development Co.:					
CI67-554 United Fuel Gas Co.	Appalachian	Ky	Pike	12 20 66	Iss.
Valor Production Co.:					
CI65-1198 Almos Gas Gathering Co.	Linke Fario	Tex	Bee	9 8 66	Iss.
CI67-16 Coastal States Gas Producing Co.	Chiltipin	Tex	Duval	9 19 66	Iss.
CI67-120 Panhandle Eastern Pipe Line Co.	Southeast Arnett	Okla	Ellis	10 7 66	Iss.
G.H. Vaughn, Jr. & Jack C. Vaughn, Operator, et al.:					
CI66-1093 Texas Gas Transmission Corp.	Northeast Lisbon	La	Claiborne	8 10 66	Iss.
Earl Vest, et al., d/b/a Vests, Dorbandt & Ross, et al.:					
CS66-130 West Texas Gathering Co.	Emperor-Deep Yates	Tex	Winkler	8 11 66	Iss.
The Vickers Petroleum Co., Inc., Operator, et al.:					
CI61-426 Transwestern Pipeline Co.	Undesignated	Okla	Beaver	9 20 66	Iss.

See footnotes at end of table, p. 1221.

NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#		FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION[1]
W. & J. Oil & Gas Producers:						
CI64-90	Consolidated Gas Supply Corp.	Grant District	W. Va.	Ritchie	11 7 66	Iss.
CI67-208	Florida Gas Transmission Co.	South Kinder	La.	Allen*	10 26 66	Iss.
W. R. Hughey, Operating Co., Operator, et al.:						
CI66-941	Texas Gas Transmission Corp.	Undesignated	La.	Webster	8 15 66	Iss.
WSC Corp:						
CI66-1289	United Gas Pipe Line Co.	South Cameron Meadow.	La.	Cameron	8 15 66	Iss.
W.C. McBride, Inc.:						
CI66-1075	Mountain Fuel Supply Co.	Nitchie Gulch	Wyo.	Sweetwater	8 4 66	Iss.
Bruce Walkup:						
CS66-138	El Paso Natural Gas Co.	Undesignated	Tex.	Rusk*	8 15 66	Iss.
C.F. Wallis, et al.:						
CI67-623	Carnegie Natural Gas Co.	Center District	W. Va.	Gilmer	12 21 66	Iss.
E. C. Ware:						
CI67-438	United Fuel Gas Co.	Lee District	W. Va.	Mingo	12 6 66	Iss.
CI67-439	United Fuel Gas Co.	Undesignated	Ky.	Martin	12 6 66	Iss.
E. C. Ware, et al.:						
CI67-135	United Fuel Gas Co.	Undesignated	Ky.	Knott	11 1 66	Iss.
CI67-403	United Fuel Gas Co.	Undesignated	Ky.	Martin	12 6 66	Iss.
CI67-404	United Fuel Gas Co.	Undesignated	Ky.	Pike	12 6 66	Iss.
CI67-405	United Fuel Gas Co.	Undesignated	Ky.	Pike	12 6 66	Iss.
CI67-406	United Fuel Gas Co.	Undesignated	Ky.	Pike	12 6 66	Iss.
CI67-407	United Fuel Gas Co.	Undesignated	Ky.	Pike	12 6 66	Iss.
CI67-408	United Fuel Gas Co.	Kermit District	W. Va.	Mingo	12 6 66	Iss.
CI67-409	United Fuel Gas Co.	Harvey & Kermit District.	W. Va.	Mingo	12 6 66	Iss.
CI67-410	United Fuel Gas Co.	Kermit District	W. Va.	Mingo	12 6 66	Iss.
CI67-411	United Fuel Gas Co.	Hardee District	W. Va.	Mingo	12 6 66	Iss.
CI67-412	United Fuel Gas Co.	Undesignated	Ky.	Martin	12 6 66	Iss.
CI67-413	United Fuel Gas Co.	Undesignated	Ky.	Martin	12 6 66	Iss.
CI67-414	United Fuel Gas Co.	Undesignated	Ky.	Martin	12 6 66	Iss.
CI67-415	United Fuel Gas Co.	Hardee District	W. Va.	Mingo	12 6 66	Iss.
CI67-416	United Fuel Gas Co.	Undesignated	Ky.	Martin	12 6 66	Iss.
CI67-417	United Fuel Gas Co.	Undesignated	Ky.	Martin	12 6 66	Iss.
CI67-418	United Fuel Gas Co.	Undesignated	Ky.	Knott	12 6 66	Iss.
CI67-419	United Fuel Gas Co.	Undesignated	Ky.	Knott	12 6 66	Iss.
CI67-420	United Fuel Gas Co.	Undesignated	Ky.	Knott	12 6 66	Iss.
CI67-421	United Fuel Gas Co.	Undesignated	Ky.	Martin	12 6 66	Iss.
CI67-422	United Fuel Gas Co.	Undesignated	Ky.	Martin	12 6 66	Iss.
CI67-423	United Fuel Gas Co.	Undesignated	Ky.	Martin	12 6 66	Iss.
CI67-424	United Fuel Gas Co.	Undesignated	Ky.	Martin	12 6 66	Iss.
CI67-425	United Fuel Gas Co.	Lincoln District	W. Va.	Wayne	12 6 66	Iss.
CI67-426	United Fuel Gas Co.	Kermit District	W. Va.	Mingo	12 6 66	Iss.
CI67-427	United Fuel Gas Co.	Undesignated	Ky.	Martin	12 6 66	Iss.
CI67-428	United Fuel Gas Co.	Harvey District	W. Va.	Mingo	12 6 66	Iss.
CI67-429	United Fuel Gas Co.	Harvey District	W. Va.	Mingo	12 6 66	Iss.
CI67-430	United Fuel Gas Co.	Harvey District	W. Va.	Mingo	12 6 66	Iss.
CI67-431	United Fuel Goa Co.	Harvey District	W. Va.	Mingo	12 6 66	Iss.
CI67-432	United Fuel Gas Co.	Harvey District	W. Va.	Mingo	12 6 66	Iss.
CI67-433	United Fuel Gas Co.	Harvey District	W. Va.	Mingo	12 6 66	Iss.
CI67-434	United Fuel Gas Co.	Undesignated	Ky.	Martin	12 6 66	Iss.

See footnotes at end of table, p. 1221.

NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION [1]
E. C. Ware, et al.—Continued					
CI67-435 United Fuel Gas Co.	Undesignated	Ky	Martin	12 6 66	Iss.
CI67-436 United Fuel Gas Co.	Undesignated	Ky	Martin	12 6 66	Iss.
CI67-437 United Fuel Gas Co.	Kermit District	W. Va	Mingo	12 6 66	Iss.
Ralph L. Warner:					
CI67-629 Equitable Gas Co.	Salt Lick District	W. Va	Braxton	12 21 66	Iss.
Darrell S. Warren:					
CS66-100 Transwestern Pipeline Co.	Chenot	Tex	Pecos	8 15 66	Iss.
Jack E. Webber, et al.:					
CI67-387 Pennzoil Co.	Grant District	W. Va	Doddridge	12 1 66	Iss.
Margaret J. Wells, et al.:					
CI67-483 United Fuel Gas Co.	Beaver Creek	Ky	Floyd	12 12 66	Iss.
CI67-558 United Fuel Gas Co.	Undesignated	Ky	Pike	12 20 66	Iss.
Wessely Petroleum, Ltd.:					
CI67-467 Northern Natural Gas Co.	West Sharon	Okla	Woodward	12 21 66	Iss.
Westates Petroleum Co., et al.:					
CS66-115 Texas Eastern Transmission Corp.*	Undesignated	N. Mex.*	Lea	7 20 66	Iss.
O. B. Wetzel, et al.:					
CI66-1165 Carnegie Natural Gas Co.	Union District	W. Va	Ritchie	8 22 66	Iss.
Roger M. Wheeler:					
CI66-1351 Panhandle Eastern Pipe Line Co.	Undesignated	Okla	Beaver	8 30 66	Iss.
N. H. Wheless, et al.:					
CI67-200 Panhandle Eastern Pipe Line Co.	Pandma Council	Kans	Stevens	11 22 66	Iss.
Douglas Whitaker:					
CI67-553 Texas Gas Transmission Corp.	South Bayou Mallet	La	Acadia	12 12 66	Iss.
Wichita Iron & Metals Corp., Inc.:					
G-18786 Panhandle Eastern Pipe Line Co.	Wil	Kans	Edwards	10 17 66	Iss.
CI63-415 Panhandle Eastern Pipe Line Co.	Wil	Kans	Edwards	10 17 66	Iss.
CI63-1494 Panhandle Eastern Pipe Line Co.	Wil	Kans	Edwards	10 17 66	Iss.
Raymond A. Williams, Jr.:					
CS67-5 El Paso Natural Gas Co.	Undesignated	Tex	Undesignated	11 14 66	Iss.
Wilson Exploration Co., Operator, et al., Agent:					
CI67-148 Tennessee Gas Pipeline Co., a Division of Tenneco Inc.	South Crowley	La	Acadia	10 7 66	Iss.
Evelynn M. Windolph:					
CI67-266 Northern Natural Gas Co.	West Sharon	Okla	Woodward	12 21 66	Iss.
William M. Wiseman & Alfred T. White, Operator, et al.:					
CI67-470 Lone Star Gathering Co.	Louise G. Williams	Tex	Victoria	12 6 66	Iss.
L. H. Witwer, et al.:					
CI66-1013 Michigan Wisconsin Pipe Line Co.	Laverne	Okla	Harper	10 17 66	Iss.

See footnotes at end of table, p. 1221.

NEW SERVICE CERTIFICATES—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION[1]
Wolfson Oil Co., Operator, et al.:					
CS66-62 El Paso Natural Gas Gas Co.	Undesignated	N. Mex.	Lea	7 20 66	Iss.
Wood Oil Co.:					
CI66-464 Colorado Interstate Gas Co.	Hugoton	Kans.	Kearny	9 8 66	Iss.
CI66-1256 Michigan Wisconsin Pipe Line Co.	Laverne	Okla.	Harper	8 10 66	Iss.
Woods Oil & Gas Co., Operator, et al.:					
CI67-261 Plaquemines Oil & Gas Co., Inc.	Potash	La.	Plaquemines	10 28 66	Iss.
R. H. Worden:					
CI67-394 United Fuel Gas Co.	Eastern Kentucky	Ky.	Pike	12 20 66	Iss.
Arlie and Iva P. Wright:					
CI66-953 Carnegie Natural Gas Co.	Clay District	W. Va.	Monogalia	7 11 66	Iss.
Wrightsman Investment Co.:					
CS66-13 El Paso Natural Gas Co.*	Appalachian*	Colo.	La Plata	7 20 66	Iss.
Yale Oil Association, et al.:					
CI67-641 Cities Service Gas Co.	Lovedale	Okla.	Harper	12 21 66	Iss.
Yates Petroleum Corp., Operator, et al.:					
CS66-30 Transwestern Pipeline Co.	Atoke Penn Gas	N. Mex.	Eddy	7 20 66	Iss.
W. R. Yinger, Operator, et al.:					
CI66-1094 Arkansas Louisiana Gas Co.	Arkoma Area	Okla.	Pittsburg	8 10 66	Iss.
Frank Yockey:					
CI67-194 El Paso Natural Gas Co.	Wildcat	N. Mex.	Rio Arriba	10 26 66	Iss.
Albert B. Yost:					
G-15481 Pennzoil Co.	Lincoln District*	W. Va.	Marion	8 15 66	Iss.
John Yuronka, et al.:					
CS67-20 El Paso Natural Gas Co.*	Wilshire Ellenberger	Okla.*	Garvin*	12 20 66	Iss.
James Zallea, et al.:					
CI66-1265 El Paso Natural Gas Co.	Mesa Verde Formation.	N. Mex.	Rio Arriba	8 10 66	Iss.
Zogg & Zogg, Inc.:					
CI67-490 United Fuel Gas Co.	Louden District	W. Va.	Kanawha	12 12 66	Iss.

See footnotes at end of table, p. 1221.

PRODUCER APPLICATIONS FOR ABANDONMENT OF SERVICE DISPOSED OF DURING THE PERIOD JULY 1, 1966 THROUGH DECEMBER 31, 1966

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION[1]
Allegheny Land & Mineral Co.:					
CI67-163 Carnegie Natural Gas Co.	Glenville	W. Va.	Gilmer	10 17 66	Iss.
C. B. Ames, d/b/a Ames Oil & Gas Co.:					
CI66-957 Texas Gas Transmission Corp.	Mortons Gap	Ky	Hopkins	8 3 66	Iss.
Anchor Production Co.:					
CI67-59 Cities Service Gas Co.	Northwest Kildare	Okla	Kay	9 8 66	Iss.
Apco Oil Corp.:					
CI67-104 Cities Service Gas Co.	North Gerke	Kan	Pratt	9 30 66	Iss.
Atlantic Richfield Co.:					
CI67-32 Valley Gas Transmission, Inc.	South Spanish Camp	Tex	Wharton	10 7 66	Iss.
CI67-305 Montana-Dakota Utilities Co.	Pavillion (Wind River Basin).	Wyo	Freemont	11 1 66	Iss.
C. M. Beckett:					
CI66-1108 Arkansas Louisiana Gas Co.	East Haynesville	La	Claiborne	7 11 66	Iss.
Benedum-Trees Oil Co., Operator, et al.:					
CI66-1117 Texas Gas Transmission Corp.	South Lake Arthur	La	Jefferson Davis	7 11 66	Iss.
Dr. Jesse M. Brooks, Operator, et al.:					
CI67-529 United Gas Pipe Line Co.	Rodessa	Tex	Marion	12 12 66	Iss.
George R. Brown:					
CI67-216 Florida Gas Transmission Co.	Pheasant	Tex	Matagorda	10 26 66	Iss.
Herman Brown Estate:					
CI66-116 Texas Eastern Transmission Corp.	Northwest Buttermilk.	Tex	Matagorda	9 30 66	Iss.
Burk Gas Corp., et al.:					
CI67-312 United Gas Pipe Line Co.	Bethany	Tex	Panola	12 1 66	Iss.
R. H. Burns, Operator, et al.:					
CI67-309 Cities Service Gas Co.	Canyon Creek Pool	Okla	Osage	11 22 66	Iss.
Chet Whaley Well Servicing Co., Inc.:					
CI67-632 Tennessee Gas Pipeline Co., a Division of Tenneco Inc.	Dockers Prairie	Tex	Montgomery	12 21 66	Iss
Cleary Petroleum, Inc., Operator, et al.:					
CI67-272 Natural Gas Pipeline Co. of America.	Southeast Boyd	Okla	Beaver	11 1 66	Iss.
Columbian Fuel Corp.:					
CI66-1224 Consolidated Gas Supply Corp.	Horse Creek	W. Va	Boone	8 22 66	Iss.

See footnotes at end of table, p. 1221.

ABANDONMENT APPLICATIONS—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION [1]
Cumberland Gas Co.:					
CI67-192 United Fuel Gas Co.	Barboursville District	W. Va	Cabell	10 26 66	Iss.
D. R. Lauck Oil Co., Inc.:					
CI66-1134 Kansas-Nebraska Natural Gas Co., Inc.	Hugoton	Kans	Finney	7 11 66	Iss.
Dixon Management Corp., et al.:					
CI66-1127 Tennessee Gas Pipeline Co., a Division of Tenneco Inc.	Twin Basin	Tex	Wharton	7 11 66	Iss.
CI66-1153 Union Texas Petroleum, a Division of Allied Chemical Corp.	North Port Neches	Tex	Orange	7 11 66	Iss.
E. Dunlap, Jr., Operator, et al.:					
CI67-382 Lone Star Gas Co.	E. Hewitt	Okla	Carter	12 1 66	Iss.
Estate of F. Julius Fohs, et al.:					
CI66-1237 Texas Eastern Transmission Corp.	South Range	Tex	Karnes*	8 4 66	Iss.
Vernon W. Frost, et al.:					
CI66-1163 Texas Eastern Transmission Corp.	Carthage	Tex	Rusk	7 11 66	Iss.
The Gerhig Co. of Arkansas, Operator, et al.:					
CI66-1151 Rio Sabine	Simpson Lake	La	Caddo	8 4 66	Iss.
O. W. Gerwig:					
CI67-621 Consolidated Gas Supply Corp.	Center District	W. Va	Gilmer	12 21 66	Iss.
Graham-Michaelis Drilling Co., Operator, et al.:					
CI66-1078 Panhandle Eastern Pipe Line Co.	Undesignated	Kans	Meade	9 8 66	Iss.
Gulf Oil Corp.:					
CI66-1226 Cities Service Gas Co.	Rhodes	Kans	Barber	8 4 66	Iss.
Harkins & Co., Operator, et al.:					
CI67-212 Texas Eastern Transmission Corp.	McKeown	Tex	San Patricio	10 26 66	Iss.
Highland Oil Co.:					
CI67-631 Texas Eastern Transmission Corp.	North Donna Area	Tex	Hidalgo	12 21 66	Iss.
H. H. Howell, Operator, et al.:					
CI67-61 Tennessee Gas Pipeline Co., a Division of Tenneco Inc.	Carmichael	Tex	Jackson	9 8 66	Iss.
CI67-101 United Gas Pipe Line Co.	Sterling	Tex	Jackson	9 30 66	Iss.
CI67-144 United Gas Pipe Line Co.	Stewart	Tex	Jackson	10 7 66	Iss.
T. F. Hunter Estate:					
CI66-1161 Lone Star Gas Co.	East Panhandle	Tex	Collingsworth	8 30 66	Iss.
CI67-309 United Fuel Gas Co.	Go Around Bayou	La	Cameron	11 1 66	Iss.
Alvin Johnson:					
CI66-1135 Arkansas Louisiana Gas Co.	Longwood	Tex	Harrison	7 11 66	Iss.

See footnotes at end of table, p. 1221.

ABANDONMENT APPLICATIONS—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION[1]
Rubein V. Johnson, Operator, et al.:					
CI67-519 Cities Service Gas Co.	Yirsa	Okla	Nowata	12 12 66	Iss.
Ralph A. Johnston & Estate of William G. Johnston:					
CI66-1222 Natural Gas Pipeline Co. of America.	Fairbanks Area	Tex	Harris	8 4 66	Iss.
Kerr-McGee Corp.:					
CI67-313 Cities Service Gas Co.	Bishop	Okla	Roger Mills	11 1 66	Iss.
Kilroy Co. of Texas, Inc., Operator, et al.:					
CI67-376 Texas Eastern Transmission Corp.	Aldine	Tex	Harris	11 22 66	Iss.
Kilroy Properties, Inc.:					
CI67-377 Texas Eastern Transmission Corp.	Dolly	Tex	Newton	11 22 66	Iss.
Kingwood Oil Co., Operator, et al.:					
CI66-1150 Northern Natural Gas Co.	Mocane	Okla	Beaver	7 11 66	Iss.
CI66-1332 Southern Natural Gas Co.	Gwinville	Miss	Jefferson Davis*	8 30 66	Iss.
B. D. Lilly, Operator:					
CI67-62 Kerr-McGee Corp	West Panhandle	Tex	Carson	9 8 66	Iss.
Livingston Oil Co., Operator, et al.:					
CI66-1319 Wunderlich Development Co.	Undesignated	Okla	Kay	9 19 66	Iss.
CI66-1320 Wunderlich Development Co.	Undesignated	Okla	Kay	9 19 66	Iss.
CI66-1321 Wunderlich Development Co.	Undesignated	Okla	Kay	9 19 66	Iss.
CI66-1322 Wunderlich Development Co.	Undesignated	Okla	Kay	9 19 66	Iss.
CI66-1323 Wunderlich Development Co.	Undesignated	Okla	Kay	9 19 66	Iss.
CI66-1324 Wunderlich Development Co.	Undesignated	Okla	Kay	9 19 66	Iss.
CI66-1325 Cities Service Gas Gas Co.	Undesignated	Okla	Noble	9 19 66	Iss.
London Gas Co., et al.:					
CI66-931 Lone Star Gas Co	Asphaltum Gas	Okla	Jefferson*	8 15 66	Iss.
Lone Star Producing Co.:					
CI66-486 Valley Gas Transmission, Inc.	South Oakville	Tex	Live Oak	12 12 66	Iss.
C. H. Lyons, Sr., Operator, et al.:					
CI67-614 United Gas Pipe Line Co.	Rodessa	Tex	Cass	12 21 66	Iss.
MPS Production Co., Operator, et al.:					
CI67-336 Texas Gas Transmission Corp.	South Bell City	La	Calcasieu Parish.	11 7 66	Iss.

See footnotes at end of table, p. 1221.

ABANDONMENT APPLICATIONS—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION [1]
Mabee Petroleum Corp., et al.:					
CI66-1214 Michigan Wisconsin Pipe Line Co.	Laverne	Okla.	Harper	8 4 66	Iss.
Marathon Oil Co.:					
CI67-71 Arkansas Louisiana Gas Co.	Jefferson	Tex.	Marion	9 19 66	Iss.
Mid-Atlantic Oil & Gas Co.:					
CI67-99 Consolidated Gas Supply Corp.	Benezette Township	Pa.	Elk	9 19 66	Iss.
Miller & Fox Minerals Corp.:					
CI67-40 Texas San Juan Oil Corp.	Miller & Fox (4100′ Sand).	Tex.	Jim Wells	8 30 66	Iss.
Monsanto Co.:					
CI66-991 Arkansas Louisiana Gas Co.	Ada	La.	Bienville	7 11 66	Iss.
Northern Natural Gas Producing Co.:					
CI66-1254 El Paso Natural Gas Co.	Ingham	Tex.	Crockett	8 10 66	Iss.
Northern Pump Co., Operator, et al.:					
CI67-181 Texas Eastern Transmission Corp.	Goree	Tex.	Bee	10 26 66	Iss.
Annie Norton, et al.:					
CI67-559 United Gas Pipe Line Co.	Rodessa	La.	Caddo	12 20 66	Iss.
Oil Industries Associates:					
CI67-299 Equitable Gas Co.	Clay District	W. Va.	Ritchie	12 1 66	Iss.
CI67-300 Consolidated Gas Supply Corp.	Clay District	W. Va.	Ritchie	12 20 66	Iss.
Okmar Oil Co.:					
CI66-1232 H. R. Jackson, et al., Trustee.	Undesignated	W. Va.	Calhoun*	9 19 66	Iss.
Pan American Petroleum Corp.:					
CI67-395 Consolidated Gas Supply Corp.	Union District	W. Va.	Tyler	12 1 66	Iss.
George Parker, et al.:					
CI67-627 United Gas Pipe Line Co.	Rodessa	La.	Caddo	12 21 66	Iss.
Pel-Tex Petroleum Co., Inc., Operator, et al.:					
CI67-476 Plaquemines Oil & Gas Co., Inc.	Cox Bay	La.	Plaquemines	12 6 66	Iss.
Philadelphia Oil Co.:					
CI67-105 Equitable Gas Co.	Clay District	W. Va.	Wetzel	9 30 66	Iss.
Reaves & Myers, Operator, et al.:					
CI67-37 Texas Eastern Transmission Corp.	North Karon	Tex.	Live Oak	8 30 66	Iss.
Wilbur Sellers:					
CI66-620 Equitable Gas Co.	Littleton District	W. Va.	Wetzel	9 8 66	Iss.
Shell Oil Co.:					
CI66-924 Arkansas Louisiana Gas Co.	Elk City	Okla.	Beckham	7 11 66	Iss.
CI67-583 Tennessee Gas Pipeline Co., a Division of Tenneco Inc.	Riverside	Tex.	Nueces	12 20 66	Iss.

See footnotes at end of table, p. 1221.

ABANDONMENT APPLICATIONS—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION [1]
Sinclair Oil & Gas Co.:					
CI66-904 Texas Eastern Transmission Corp.	Various	Tex	Hidalgo	8 22 66	Iss.
CI67-582 Michigan Wisconsin Pipe Line Co.	Laverne	Okla	Beaver	12 20 66	Iss.
Joseph B. Singer, Operator, et al.:					
CI67-278 Arkansas Louisiana Gas Co.	Undesignated	La	Undesignated	11 16 66	Rej.
Skelly Oil Co.:					
CI67-475 Tennessee Gas Pipeline Co., a Division of Tenneco Inc.	Agua Dulce	Tex	Nueces	12 6 66	Iss.
CI67-488 United Fuel Gas Co.	Erath	La	Vermilion	12 20 66	Iss.
Southdown, Inc., Operator, et al.:					
CI66-1132 Texas Gas Transmission Corp.	North Cankton	La	St. Landry	7 11 66	Iss.
Southern Minerals Corp., Operator, et al.:					
CI67-340 Lone Star Gathering Co.	Smith Creek	Tex	De Witt	11 22 66	Iss.
Southern Exploration Consulants, Inc., Operator, et al.:					
CI67-378 Lone Star Gas Co.	Asphaltum	Okla	Jefferson	11 22 66	Iss.
Sun Oil Co. (Mid-Continent Division):					
CI66-1125 Colorado Interstate Gas Co.	Kansas-Adams Ranch.	Kans	Meade	7 11 66	Iss.
Sunray DX Oil Co.:					
CI67-452 Texas Gas Transmission Corp.	Carlton Area	La	Quachita	12 6 66	Iss.
Sunset International Petroleum Corp., et al.:					
CI67-379 Kansas-Nebraska Natural Gas Co., Inc.	Little Hoot*	Colo	Logan	12 1 66	Iss.
CI67-380 Cities Service Gas Co.	S. W. Mt. Vernon	Okla	Lincoln	12 12 66	Iss.
The Superior Oil Co.:					
CI66-213 Florida Gas Transmission Co.	Oliver	Tex	Brazoria	10 26 66	Iss.
Tenneco Oil Co., Operator, et al.:					
CI67-8 Lone Star Gas Co.	Doyle	Okla	Stephens	11 22 66	Iss.
CI67-31 Natural Gas Pipeline Co. of America.	Fairbanks	Tex	Harris	8 22 66	Iss.
Texaco Inc.:					
CI67-75 Texas Eastern Transmission Corp.	East Taft	Tex	San Patricio	9 19 66	Iss.
CI67-383 Lone Star Gas Co.	E. Hewitt	Okla	Carter	12 1 66	Iss.
Thomas Jordan, Inc.:					
CI67-211 Texas Eastern Transmission Corp.	Reeves	La	Allen Parish	10 26 66	Iss.
Trans Gas Pipeline Corp.:					
CI67-277 Coastal States Gas Producing Co.	Buckhart	Tex	Duval	11 1 66	Iss.

See footnotes at end of table, p. 1221.

ABANDONMENT APPLICATIONS—Continued

PRODUCER#, DOCKET NO. AND PURCHASER#	FIELD	STATE	COUNTY	DISPOSITION DATE	DISPOSITION [1]
H. V. Tucker:					
CI67-58 Colorado Interstate Gas Co.	Mocane	Okla.	Beaver	9 8 66	Iss.
Union Producing Co.:					
CI67-333 United Gas Pipe Line Co.	Rodessa	Tex.	Cass	11 22 66	Iss.
CI67-388 United Gas Pipe Line Co.	Monroe	La.	Union	12 1 66	Iss.
Vincent & Welch, Inc., Operator, et al.:					
CI67-375 Transcontinental Gas Pipe Line Corp.	Grand Coulee	La.	Acadia	12 1 66	Iss.
W. W. F. Oil Corp.:					
CI67-290 Michigan Wisconsin Pipe Line Co.	N. Tepetate	La.	Acadia	11 1 66	Iss.
Warren Petroleum Corp.:					
CI67-121 Natural Gas Pipeline of America.	Fairbanks	Tex.	Harris	9 30 66	Iss.
O. L. Williamson:					
CI67-127 Equitable Gas Co.	West Union District	W. Va.	Doddridge	10 7 66	Iss.
Wilshire Oil Co. of Texas:					
CI67-259 Panhandle Eastern Pipe Line Co.	Bluebell Northwest	Kans.	Seward	11 1 66	Iss.

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*Indicates that other fields, counties, or States are also included.

#Producers' and Purchasers' may include et al., trustee, agent, or additional names on certain dockets.

[1] Iss., issued; Rej., rejected; Wtd., withdrawn.